Alberta's Constitutional Reform Task Force

Roundtable I
October 26, 1990

"An Overview of Federalism"

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CONSTITUTIONAL REFORM TASK FORCE OF ALBERTA

MEMBERS:

Hon. Jim Horsman, Chairman
MLA, Medicine Hat

Stan Schumacher, Vice-chairman
MLA, Drumheller

Jack Ady
MLA, Cardston

Hon. Dennis Anderson
MLA, Calgary Currie

Hon. Nancy Betkowski
MLA, Edmonton Glenora

Fred Bradley
MLA, Pincher Creek-Crowsnest

Pearl Calahasen
MLA, Lesser Slave Lake

Stockwell Day
MLA, Red Deer North

Hon. Ken Rostad
MLA, Camrose

Gary Severtson
MLA, Innisfail

STEP ONE - ROUNDTABLE MEETINGS

The Government of Alberta established a Constitutional Reform Task Force to examine the province's future in Confederation. As a first step in the process, the Task Force is holding roundtable discussions with constitutional experts on the changing nature of federalism.

As a second step, a discussion paper based on the roundtable meetings will be issued to Albertans. Thirdly, full public hearings will be held throughout Alberta in order to develop an Alberta position on constitutional reform.

Finally, recommendations will be submitted to the Legislature for full public debate by all parties.

The following is a transcript of the first roundtable session, held October 26, 1990.

For further information, contact: Communications
Alberta Federal and Intergovernmental Affairs
(403) 422-1510 Fax: (403) 423-6654

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ALBERTA'S CONSTITUTIONAL REFORM TASK FORCE

ROUNDTABLE I

OCTOBER 26, 1990.

MR. HORSMAN: I'd like to call the meeting to order. We're missing one of the participants of our task force this morning. I expect she may be along, but I'd like to get underway.

First of all, I'm Jim Horsman. I'm the Minister of Federal Intergovernmental Affairs, and I'll be acting as chairman of the Alberta Constitutional Reform Task Force. Seated to my left is Stan Schumacher, the MLA for Drumheller, who is the vice-chairman of the Committee. Going around the table, the membership is comprised as follows: Jack Ady, the MLA for Cardston; Pearl Calahasen, MLA for Slave Lake; Dennis Anderson, MLA for Calgary Currie; Ken Rostad is the MLA for Camrose; Fred Bradley, the MLA from Pincher Creek - Crowsnest. Two of our members are unable to attend, and the other will be along. Here she comes right now. Nancy Betkowski, the MLA for Edmonton Glenora.

I'm just going to make a few opening comments. This is the first of four roundtables that are proposed to discuss Alberta's role in the future of Canada, and this morning we are going to undertake an overview of Canadian federalism. This will be just the first of four of these meetings. The next will be held in Calgary on the 2nd of November a week from today and will deal with other issues, and I think that the next two dates have not yet been firmly established as we are in the process of attracting and working with the other presenters who will be giving advice to our Task Force and to the public of Alberta as we go through this process.

I want to make it very clear at the outset that this is only the first step in the Alberta Government's approach to defining Alberta's role in confederation. In the next few weeks we will be concluding this first step of roundtable discussions, and then we will move to prepare a discussion paper for the people of Alberta to consider. That discussion paper will pose a

number of questions for Albertans' consideration as to where we should be as a province within confederation and the nature of confederation itself. And I dare say that following the discussions we will have, we will be posing very fundamental questions, and we'll be asking Albertans their views.

Questions I think will range from everything relative to the very fundamental nature of the British Parliamentary system: will it let Canada continue to serve the people of Canada, is the Constitutional monarchy continued to be an appropriate method by which we find ourselves governed, what is the nature of the provinces to be, what is the future of the Territories, what will be the appropriate division of responsibilities, is the one which is arrived at prior to 1867 the appropriate division of responsibilities between the provinces and the Federal Government in today's federalism. These are all fundamental questions, and we hope that Albertans will seriously consider them when the discussion paper comes forward. I'm not pre-judging anything because I think we want to have this as the most comprehensive review of the Constitutional position ever undertaken within Alberta.

Once that discussion paper has been prepared for consideration by Albertans, I hope that we will at the same time have devised some fundamental questions which we'll try to have circulated as broadly as possible so that all Alberta households will have the opportunity of responding to the questions posed. I'm hopeful that my colleagues will see fit to ask those questions by a way of household mailings, which all of them have access to, and that when we gather in those replies, we will have a much better understanding of how Albertans feel about their future.

There will be a series of public hearings following that discussion paper. They will be held throughout Alberta. We have not yet, of course, formulated the timetable nor the places where the meetings will be held, but we will try to make the Task Force available as broadly as possible within the province.

Once that has been completed, we will prepare a position paper as opposed to a discussion paper, and that will set forth the position of our task force and obviously of the position of the government. That will be put forward, then, to the Legislative Assembly for a full debate and discussion with a real possibility that we would engage the Public Affairs Committee of the Legislature in that discussion, which of course is an all-member committee of the Legislature, and we would expect them to have as

full as possible debate before we finalize a position relative to Alberta's role in the future.

I think we have to make it clear as well that we're in the position now of having other governments in Canada considering these issues under differing processes, but similar concerns. So far as I'm aware, only one province has ruled out the establishment of a similar inquiry, and that being Newfoundland, but the Federal Government as well is in the process of formulating a process that they will be utilizing to determine Canadians' views on the future of confederation. So we will have to respond to those other provincial initiatives as well as the federal initiative, and that is something we will do as we move through this whole process.

So with that in mind, today's discussions we would like to commence, and the process will be as follows: We will have an overview of federalism by Dr. Ron Watts, who I'll introduce in a moment or two, and then there will be questions from the Task Force regarding that presentation. We will then have a discussion of the evolution of Alberta's Constitution position by Dr. Peter Meekison. There will be questions then, and then a break, and then there will be a roundtable discussion. In the process of that roundtable discussion we are asking members of the public who are here today to submit some questions as they come up; question cards should be available for you, if you would identify yourself on the question card with your name, address, and so on. If it's not possible to provide the detailed answers to some of the questions which are posed, it's our undertaking to members of the public that we will respond to those questions, and we will ask our panelists as well to respond to some of the concerns which you may put on your questions to either our presenters this morning or to the Task Force itself.

For those of you who wish to follow this whole process throughout, these sessions are being videotaped and will be publicized throughout Alberta at a later date on cable television. And as well, those of you who wish to be placed on a mailing list for receipt of information, material that will be produced by the Task Force in the course of our hearings, please give us your names and addresses so that we can keep you fully aware of the progress that we are hoping to make. The key element in this whole exercise is to establish clearly in Albertans' minds that they have full opportunity to provide information and advice to their government as to the nature of Canadian confederation.

I think it's important that we keep in mind as well that we're not just talking about the Constitution itself without considering its impact upon the economy of Canada because the issue of the economy and the Constitution are inextricably interwoven. As I've discussed with Premier Rae a week ago today in Ontario, public conception that the Constitution of Canada can be put over here on one side and the economy can be put over there on the other side is just not realistic in today's society. So what happens with regard to our Constitution and the division of responsibilities between government is fundamental to the future of operation of the economy of this country, and therefore the two are going to be carefully considered in the course of our discussions.

That's the conclusion of my opening remarks and I'm right on time, even though we started a few minutes late. I'd like now to introduce Dr. Ron Watts.

Dr. Watts has a long and distinguished academic career and served at one time as the principle of Queen's University, Kingston, Ontario, the principle positions being that of president, I understand, in most universities, but because of the nature of the origin of Queen's, that is the title. He is now serving as the Director of the Institute of Intergovernmental Relations at Queen's University. He is widely published, widely read, and carefully listened to when the subject of federalism is discussed within Canada. So I'd like now to ask Dr. Watts if he would make his presentation to the Task Force and through us to the members of the audience and to the people of Alberta through the good services of the news media who are covering this event today and cable vision, of which we will be broadcast later.

Ron, glad to have you with us.

DR. WATTS: Thank you very much for the welcome, Mr. Chairman. I want to begin by saying that for me it's a privilege and an honor to have an opportunity to participate in this process which you've undertaken here in Alberta, and I'm happy to help in any way I can, and as you know, our institute has always offered its services to help in any way it can to the Alberta Government.

The topic that you've given me to speak on is a very broad one indeed to cover in just about a half an hour, and I therefore want to start by saying that you will probably find that on some points I'm

rather sketchy, simply skating over points rather quickly trying to hit the major points, and I hope you won't hesitate to draw me out later if I've gone over a point too quickly. But I thought I would try to divide my comments into three sections; the first looking at the basic concept of federation as a type of political organization. I think it's important to understand what federalism involves, looking at it as a general concept; then secondly, to look at the specific characteristics and dynamics of Canadian federalism, arising out of its origin and its evolution; and then perhaps a few remarks at the end about the new context arising in 1990 out of the post-Meech Lake situation as it relates to the previous evolution of Canadian federalism.

To look quickly at the basic concept, I think it is important to understand what we mean by federalism as a concept. Tomes have been written on this subject, in fact I've been accused of writing on it as well, but for purposes of this discussion, I'm going to go very quickly over it and simply emphasize that federalism as such is a particular category in the form of territorial political organization, that is a geographical organization. If one's thinking vertically, one may think in terms of the role of the Executive, the Legislature, and so on, but on a territorial plane, there are, broadly speaking, three categories of territorial organization which the scholars usually refer to as unitary, federal, and confederal.

In a unitary system, there may be decentralization, there may be local or even provincial governments, but ultimately political and legal supremacy or sovereignty resides with the central institutions. Britain, for example, has a unitary system and had quite a system of local governments, but Margaret Thatcher could virtually abolish them or change them as she has done at her will with no constitutional barrier.

At the other extreme in confederation is our confederacies. Even where there may be considerable powers assigned to the central structures, ultimate political and legal supremacy rests with the constituent units and the central governments are subordinate; in other words, the central government really consists of delegates of the constituent governments. It could be said, for instance, that that's the form the United States had before 1787, when it replaced it with a federal system; the early stages of the European community clearly fall into that category.

What distinguishes a federal system from these two types of territorial organization is that it is a system in which sovereignty

or ultimate legal and political competence is distributed between central and constituent units in which neither is subordinate. So in a unitary system the regional governments are subordinate, in a confederal system the central government is subordinate, but in a federal system in the classical definition of it, the two levels of government are coordinate; that is, neither level is superior or supreme to the other. Another way of putting it is to say that federalism combines shared rule with self rule. It's another definition that has been traditionally given.

Having classified those three different types, a couple of quick points need to be made about this classification. First of all, these three types do not represent ideal models. Within each of these categories there are enormous variations. Therefore, it's better to think of the three types as a sort of spectrum with the unitary, federal, confederal colours, but the colours shade into each other at the margins, and indeed, it's not unusual to find that statesmen creating new constitutions have even created hybrids. Indeed, the British North America Act in 1867 was a hybrid. While it was predominantly federal, it contains some unitary features, the reservation and disallowance, the declaratory power and so on, which led one of the eminent scholars, Kenneth Wheare, to describe it as not generally federal, but quasi-federal. So the first additional comment to note, then, is that there are variations within federations, variations within unitary systems, variations within confederal systems, and at the margins they shade into each other.

It's important as well to notice that -- a point that you've already made, Mr. Chairman -- that it isn't simply a matter of looking at the Constitution, it's a matter of looking at the way in which the Constitution has operated; that is, the practice may be as important as the Constitution. I shall say a little later on that Canada, for instance, in fact has a highly centralized Constitution, but we do not operate it in as centralized a way as the written word of the Constitution might lead one to believe.

Now, in terms of examples that we might look at to put Canada in a comparative context, I think one can identify something like 19 federations that exist at the current time, or claim to in the world, and indeed, of the six largest countries in the world, five are federal in form. The point I'm making, without going through the list -- I could provide the list if you want it -- is simply to emphasize that we are not unique, the federal form of government in the late 20th Century is quite a common form of government,

and indeed it's also interesting to note that if one looks at the United States, Switzerland, Canada, Australia, in the order in which they were formed, those are four of the longest-standing constitutional systems anywhere in the world today. You will find very few other constitutional systems that have survived as long as those have, which tells us something about the efficacy of the federal form of government.

Now, it's worth noting that in these 19 federations, broadly speaking, certain common features predominate. In each of them you have two orders of government existing in their own right under the Constitution and acting directly on the citizens, that is the central order of government and the regional order of government. They be called provinces, states, cantons, lender, republics, but the point is you have the two orders of government.

Secondly, in all of them there is a formal distribution of legislative and executive authority and of revenues between the two orders of government. And in all of them there's a written Constitution defining the competence and resources of the two orders of government, a Constitution which is not unilaterally amendable by one level of government or the other. And in each of them there is an umpire to rule on disputes between the two orders of government, taking either the form of a Supreme Court, a constitutional court, or in the case of Switzerland, a referendum process. And finally, in each of them there are processes and institutions to facilitate intergovernmental collaboration where inevitable overlaps and shared functions occur.

But I've also pointed out that there are many variations amongst federations, and these will be relevant to our consideration in Canada because without abandoning a federal form, one could achieve a considerable measure of constitutional revision, taking account of these factors. One is variation in terms of the number, relative size, wealth of the constituent units, and whether they are equal or varying; that is, asymmetrical in status within the federation. In such federations, for instance, as Switzerland, Malaysia, India, and indeed the British North America Act originally, there was an asymmetrical status of the units which went to make up the federation.

Secondly, there's the issue of the allocation of jurisdiction in terms of the form by which powers are allocated to the levels of government, whether it's in terms of exclusive powers, concurrent powers

jointly shared, residual powers where they lie. There are variations in terms of how actual fields are assigned to one level of government or another, including the taxing powers; there are variations in terms of whether administrative responsibilities should coincide with legislative ones. One of the things that distinguishes, for example, the Federal Republic of Germany is that it is more centralized than Canada in terms of legislative powers and more decentralized than Canada in terms of administrative powers because the Constitution identifies a whole broad area in which the Federal Government may legislate, but the states are given the power to administer, and then it sets up machinery for ensuring that the two mesh.

There are also variations in terms of central institutions, whether they are parliamentary, as in Canada, presidential, as in the United States, or collegial, as in Switzerland. So there are three basic forms in that respect, there are variations in terms of whether the constituent units are equally represented or represented in varying proportions in the second chamber of the central institution, and in some federations there's dual membership, that is members of a state legislature may also be members of the national legislature. Switzerland is an example. There are also variations in the character of the umpire, the nature of the court, and in the processes for intergovernmental collaboration. My point in emphasizing these variations is to show that one should not think of federalism as one pure model, but within that model enormous variations can occur.

I was asked also to make a comment on the limitations and advantages of federal systems, and I will go over this quickly because I want to get on to the particular Canadian application of these questions.

Most of the traditional critiques of federalism really approach it from the vantage either of those who are in favour of unitary or those in favour of confederal systems. Those in favour of unitary systems criticize federal systems as producing weak central governments, reinforcing regional consciousness, being legalistic in terms of requiring court judgments, being rigid, difficult to amend and change, involving overlaps and complexity and the costs of two levels of government. Hence Sir Ivor Jennings, writing about the application of federalism for the Third World, argued that nobody would ever adopt a federal system unless it was unavoidable and only as the last resort to holding a country together.

On the other hand, those who favour confederal systems fear that in a federal system the central government is too strong, that the regional groups do not have the veto to protect their security against the majority, and also point to the historic trend in most federations towards increasing centralization over time. The traditional arguments in favour of federal systems have usually emphasized that it represents a way of reconciling the need for larger, viable, economically viable, political units, combining that with the ability of regional units to maintain their distinctiveness through autonomy in their provincial state governments and so on.

Indeed, it can be argued by many that in the current contemporary world the nation's state as such, the unitary nation state, is both too large and too small, and what a federal system enables one to do is to combine the advantages of a large unit with the advantages of small political units. And in comparison to unitary systems, it also provides protection, self government, self determination, self rule, if you like, for regional minorities and regional groups.

As to the achievements and benefits in practice, I would just briefly harp back to what I said earlier, that one of the remarkable things, historically speaking, is that although not all federations have survived and not all have avoided difficulties, indeed one could speak of a pathology of federalism if one looks at what's happening at the U.S.S.R. these days, or Yugoslavia for instance; nonetheless, there are a number of classical federal systems that have been remarkably successful and persistent over time. And one scholar, Martin Landau, applying modern cybernetic theory, puts this down to what he calls the system reliability in a system which has redundant, that is parallel, forms of political decision-making. Just as a Boeing 747, for instance, will have more than one braking system in case one fails, he says that what makes federal systems succeed over time is that when one level of government fails to tackle a problem, there is another level, another channel, which may be able to to cope with the problem; and he attributes the longevity of the federal systems to this characteristic.

So much for the general issue of the concept of federalism. I wanted to sketch that out so that I can put the Canadian one within that general context.

First of all, looking at the character and dynamics of Canadian federalism, the first point I want to look at is the impact of the

origin. It's worth noting that the conditions shaping the Canadian federal system are really threefold: strong economic factors, the desire to develop the west, that is to fill the frontier, and also to replace the trade with the United States lost when reciprocity was removed. There was strong security reasons at that time, the threat of the United States, but there are also political factors, which it is important to remember, which perhaps those in central Canada are more conscious of, and that was that there had been a unitary union of what is now Ontario and Quebec under the Act of Union of 1840, and it had not worked. It had created all sorts of blocks and deadlocks, and it was the grand coalition, and what was then the province of Canada decided that they had to split that single colony into an Ontario and a Quebec in order to recognize the cultural and linguistic differences between the two halves. So there were economic, security, and political factors affecting the shape of it.

What were the characteristics of the British North America Act as a result? It represented an effort to reconcile a very strong central government in terms of economic powers and security powers with a evolution in the area of social and cultural affairs. The social and cultural evolution being related to the need to accommodate Quebec, the strong economic powers to create an east-west trade to replace reciprocity to develop the west, and so on.

And so if we look at the distribution of powers as established in 1867, by comparison with other existing federations at the time, the British North America Act was much more centralist than the preceding constitutions, say, of Switzerland or the United States; and it included some overriding central powers such as reservation, disallowance, the declaratory power, the peace order, the government clause, and so on. It also included elements of asymmetry in recognizing the distinctiveness of Quebec. Although it's never been employed, Section 94 about civil law enabled common action by the central government on civil law, but that would not apply to Quebec. Section 93.2 made some special provisions for Quebec about education. Section 133 made some special provisions about minority language rights.

The distribution of powers, then, was one area where there were distinctive arrangements, both in terms of centralism and asymmetry. The central institutions represented an innovation. Canada was the first example in the world of the effort to combine federalism with British-type parliamentary institutions. The preceding American federal system had used

the presidential system, the Swiss devised a collegial system. We were the first. Many others have now copied Canada. Australia is an example, Germany is another example, but the point is that that was a Canadian innovation, but it had certain implications. It meant that it was difficult to couple a strong Senate with a House of Commons to which the Cabinet had to be responsible. This was a quite different situation from the separation of powers within the central institutions which existed in the United States and Switzerland. It also meant that there was an asymmetrical representation of provincial units within the Senate; that is, the representation was done by regions rather than by provincial units. I'm not arguing for whether that's good or bad, I'm just identifying why it happened and what happened.

Now, let me go quickly over the evolution of that system up to recent times, say up to the 1960s. And here I would make six quick points: First, the Canadian federal system was remarkably flexible without constitutional amendments in the period from 1867 to 1960. Indeed, there was an apparent pendulum of swings from periods of extreme decentralization, especially in peace time, to extreme centralization in wartime emergency federalism, and all of this achieved without constitutional amendments. So this bears out once again the point that the chairman made about looking not simply at the written word of the Constitution, but the processes and practices by which it is applied.

The second is that during that period from 1867 to 1960, underlying these apparent swings of the pendulum, there were processes of parallel nation building and province building. Both levels of government increased their activities. It wasn't a case of one increasing them at the expense of the other; I think the true interpretation is to say well, there may be swings; both were going in an upward direction. At certain periods one level might move more quickly than the other, but then at other periods the other level would move more quickly. The result is that by 1960 both the national government and the provinces were each doing far more than they were doing in 1867.

The result of this, however, the greater role of both levels of government in society, the result of this is that this created more and more areas of overlap, friction, and at times conflict, and indeed hence some of the problems.

The third point to note is that in that period there

was a changing composition of the federation. Not at all insignificant when one considers that it grew from four provinces to ten. This had implications, certainly a significance particularly for Quebec, which though it still had one-quarter of the population, saw itself shrink from being one-quarter of the federation to one-tenth if one looked at it in terms of the number of units making it up.

Even more important perhaps was the changing composition of the population. From what was predominantly an English/French population in 1867, it has now become one marked by multi-cultural diversity in which neither the English nor the French represent a majority within the population. So that the composition of the population itself has had an important impact upon the character of Canadian federalism.

The fourth point to note is that during the course of the evolution of Canadian federalism, there has been a tension between two different strategies of nation building, what one might call nation centered federalism and collaborative federalism. The two perhaps most dramatic exponents of nation centered federalism would have been John A. Macdonald in 1867, who clearly saw the way to hold the country together being one of a strong central government, and perhaps the most recent exponent of that view was Pierre Elliott Trudeau. I used to be amused when Eugene Forsey told me that he was a John A. Macdonald Liberal when he supported Pierre Trudeau.

The other tradition, emphasizing the notion that you hold the country together and bring it together by accommodating diversity, taking account of it and recognizing it, has been described as collaborative federalism, and perhaps the major historical exponent of that was Laurier, Wilfred Laurier. I recall well a colourful passage in which he spoke of coming back from Queen Victoria's Jubilee and visiting a British cathedral in which within one harmonious whole you saw the granite, the marble, the wood, each distinctive and able to be recognized, and yet blending together into a harmonious whole. Well, I suppose the most recent exponent of that tradition, however successful or unsuccessful, has been Prime Minister Mulroney.

The point is that different prime ministers at the national level have pushed forward these two strategies, neither of these strategies has prevailed. Each time one of them is pushed, there's been a reaction from the other side. One saw this in the reaction over Meech Lake, for instance, and one saw this in the reaction to Pierre Trudeau's pressure for

nation centered federalism. So the point is that there's been a tension between these two strategies of nation building.

The fifth point arising out of the history is the development of executive federalism. That is an outgrowth, I would argue, from analysis of other parliamentary federations; other federations that have combined parliamentary and federal institutions like Canada have also exhibited executive federalism. In the cabinet system of government, the cabinet tends to become predominant, and that means that intergovernmental relations are quite naturally, in such a system, focused on relations between representatives of cabinets or the cabinet members themselves, which is quite a contrast from the way in which it occurs in, say, the Swiss or American form where it occurs largely through negotiations amongst representatives in the national legislature.

Finally, in terms of this historical evolution -- two points. First of all, in terms of assessment of centralization and decentralization, Pierre Trudeau once argued that the Canadian federal system was the most decentralized in the world on the basis of examining levels of revenue and public expenditure at both levels. I would argue that (a) that assessment was on too narrow a base, and (b) in any case, it was not correct because one can produce figures to show that on that sort of calculation, Switzerland and Germany are just as decentralized. But if one looks more broadly at the activities in terms of the powers assigned under the Constitution, the Constitution remains, in spite of what amendments have occurred, as relatively centralized, but practice has led to a considerablely larger measure of decentralization.

But one can't just look at the distribution of functions between levels of government. I have always argued, and I know Albertans would be sympathetic to this argument, that just as important an indicator of centralization within a federal system is how central decisions are made, that is, what is the input of regional units into that decision-making. And on that scale, certainly other federations like Switzerland, Germany, and the United States are more decentralized than Canada. The way the Canadian parliamentary system is organized and the dominance of the House of Commons and the majority in the House of Commons means that we have a highly centralized form of national decision-making. So if you look at both the distribution of functions and the way in which national decisions are made, it will be difficult to argue that we are the most decentralized federation in the

world, and both those areas then need attention in any revision.

Finally, in terms of evolution, the issue of symmetry and asymmetry. During the evolution of the Canadian federation, there have been trends in both directions, especially since the 1960s. During the 1960s, the opting out arrangements that were adopted represented a pragmatic way of providing some variation amongst provinces in terms of how certain policies were adopted. But there have also been pressures for symmetry, not the least pressures from Alberta expressed through the 1982 constitutional amendment process which got away from the notion of regional vetos and treated all provinces as equal.

Nonetheless, the debate over the Meech Lake Accord shows that the issue of reconciling provincial equality with provincial asymmetry is one of the crucial issues that faces us. The impact of the Charter and its emphasis upon uniformity of rights across the country puts a strong pressure, especially from English Canada, on the notion that there should be equality across the country. On the other hand, the special concerns of Quebec about its distinctiveness and about the protecting its particular culture and developing itself in those lines puts a strong pressure in the direction of asymmetry. And one of the issues that will have to be faced is how do we reconcile the two?

It seems to me there are two possible ways of reconciling; one, if Quebec is insistent upon decentralization, is to decentralize everywhere so all provinces are equally in an equal position. That's not easy to do, however, if one looks at a province like Prince Edward Island, which is terribly small, and it's hard to think of Prince Edward Island being able to sustain the same level of functions that, say, Quebec or Ontario or Alberta or British Columbia might sustain. So it might require reorganization of units so that the individual units can sustain the level of equal function.

An alternative one is to develop a pragmatic arrangement to reconcile symmetry and asymmetry, either through an opting-out procedure or an opting-in procedure. In other words, the formal status of provinces would be symmetrical, but provinces would have the opportunity to opt out, a pattern that was first worked out in the 1960s, or alternatively apply Section 94, which has never been applied in the Constitution, more broadly, that is the provision which sets a particular level of symmetry but then allows provinces to opt in, opt in in the sense of asking the Federal Government to

legislate for a certain number of provinces in a particular area. I'm just tossing out ideas there.

Well, I see my time is up, so in just about two minutes I'll cover three or four pages of what I've got there to suggest things that we might still have discussed.

One is to note that in 1982 -- that is, I've talked about the evolution up to 1960, but from 1960 to 1990, we've faced two major turning points. The first was the 1982 constitutional amendment, which is a major turning point I think in three ways. It was the first time a major change was made in the Constitution without Quebec's consent. Secondly, the Charter was instituted as a third pillar of the Canadian Constitution to add to federalism and parliamentary government, and it has introduced a new emphasis on citizens' rights on litigation, on judicial supremacy as opposed to legislative supremacy, and so on. And thirdly, it patriated the Constitution and introduced a new amendment formula which has of course affected the processes and efforts to amend the formula since.

The second turning point, of course, was the demise of the Meech Lake Accord. It did, perhaps, a number of things. It certainly showed the implications of the radical changes made in 1982, showed how important the emphasis upon equality of citizens' rights embodied in the Charter is. It has also indicated the degree of polarization between Quebec and the rest of Canada in terms of what was basically a largely symbolic document, but in which, as it's turned out, has been interpreted by Quebec to mean that the rest of Canada is not ready to accept that symbolic asymmetry.

Well, that leaves us then with a situation now where I think we're faced with having, as a country, to reassess the situation. Perhaps we'll get into that in the course of the discussion. Since my mandate was to talk about the general operation of the federal system rather than to try to suggest things for the future, I would simply argue that we have a basic problem that is unresolved in our federal system, that's the issue that I'm trying to draw out of the historical pattern that I've drawn, and therefore that it is highly important that governments, and through them, task forces like this should be considering how -- what sort of modifications need to be made to the Canadian federal system.

The continuity of the federal system is at stake, we can't refuse to face the issue because if we refuse to face the issue, that will

simply be pushing Quebec into saying well, if our concerns are not attended to, then we will simply unilaterally declare independence. And I think one of the most important things to emphasize at this stage is the importance of the processes that are adopted to consider this issue because those processes may themselves shape the outcome. It's terribly important that we take account of the public's concern for responsiveness, but combine that with an ability to reach some effective resolution. And it seems to me your outlining, Mr. Chairman, of a discussion paper first followed by a position paper recognizes that difference between first having to consult and get input and views, but then also having to reach some sort of effective decision afterwards.

At the same time, it's going to be important that we establish processes which do not lead any of the parties concerned, including Quebec, to take irrevocable steps without knowledge of what the implications are. It's going to be important to make sure that this process is carried out in a measured and careful way and equally important that while Quebec is considering the alternatives that face it, that the rest of Canada, the other nine provinces, look at these issues so that they're not simply there to react to what Quebec has to say but are ready to bring forward what they think needs to be the shape of the future of Canada.

Well, Mr. Chairman, I've skated over an awful lot of things there. Please don't hesitate to draw me out on things that I've gone far too quickly over.

MR. HORSMAN: Thank you very much, Ron. I appreciate the fact that you have indeed touched on a number of issues, and I think that now we'd like to entertain questions from the members of the Panel, of the Task Force, and I wonder who would like to start. Dennis Anderson.

MR. ANDERSON: Mr. Chairman, Dr. Watts indicated both in the statements made this morning and in some writings that I've reviewed previously that in terms of the Meech Lake Accord, the scars of that Accord currently used would remain for some time and implied in fact that confederation might unravel itself. I guess that leads me to the question, now that we are post-Meech Lake, is Canada in fact unravelling, in your opinion, Dr. Watts, and if so, should we be starting these discussions from the perspective of evolving a new kind of nation, or are we tinkering with what has

been discussed and the historical basis that's there from before?

DR. WATTS: I would prefer to say that not that Canada is unravelling, but that it is in danger of unravelling. I think the danger is important. I would not want to predict that it will unravel. Whether it will or not is going to depend upon how bodies like you rise to the challenge, and elsewhere in the country I might add, and so on. But I do believe at this stage that it's going to be important to look at radical alternatives, not just tinkering. One of the tragedies of the Meech Lake Accord, and I was a supporter of it, one of the tragedies of its demise is that when you look at what was really in the Meech Lake Accord, it was largely symbolic; that is, its value to Quebec was largely symbolic. There wasn't an awful lot in the way of powers being given to Quebec, but symbolically it was important. And indeed, one external commentator, when I was at a conference in Europe, said to me, only in Canada could there have been so much angst over an attempt to constitutionalize the status quo.

But the point is, that having rejected it -- yes, I know eight provinces supported it, but nonetheless, having rejected it, from the point of view of Quebec, the symbolism is terribly powerful, and the result of that is that we have pushed Quebec, through its commission and so on, into considering more radical alternatives which will involve substantive changes, not just symbolic ones. And in that situation I think we and the rest of Canada need to look at what are the realistic alternatives. In other words, we need to examine each of them to see what would be involved in them, and if we examine them carefully, we may then come to a result by identifying which ones we could not live with and which ones we could live with. And one of the alternatives we will have to examine is what would the rest of Canada be like without Quebec.

To someone who comes from Ontario, I don't think a rest of Canada without Quebec would be a good idea for the simple reason that Ontario would become 49 percent of the population and 54 percent of the GMP of what's left, and no federation that I know of where a single unit has been that high a proportion has been stable or survived. Therefore the rest of Canada with a dominant Ontario, and I say this as an Ontarian, would I think be a disaster. so if we were looking at a rest of Canada without Quebec, I think we would have to totally reorganize the rest of Canada to cope with that

situation.

That's just one alternative. I'm not advocating it, but I think we have to face what's implied in the different alternatives. It's not enough just to say let them go, somehow or other life will go on the same; it won't. But that's just one alternative. We need to look -- I did a paper recently, and Mr. Chairman, I'll table a copy with you, a table at the request of the Business Council on National Issues on the issue of options for Canada's future. In it I attempted to identify, without saying pro or con, each of them, a variety of options for the future, that is five different models of federalism that could be considered for the future, three different models of confederalism, and of course separation. So those are nine different variations that are possible for the future, including some variations within them, and I'll be happy, Mr. Chairman, to table that with you.

I might have discussed it at more length, but it was just impossible to cram all that in in half an hour. But I hope I've answered your question in saying that I think it's terribly important that we in the rest of Canada -- and I use the word rest of Canada rather than English Canada because it seems to me the rest of Canada is no longer purely English -- we in the rest of Canada need to look at what we see as the vision of Canada in the future, what the alternative ways of getting that are, rather than waiting simply to react to what comes out of Quebec.

MR. ANDERSON: Mr. Chairman, if I might be permitted one follow-up question. Virtually in the same paragraph that Dr. Watts mentioned that Canada had the potential to unravel, needed to look at some new directions, you indicated that the constitutional amendment process of 1982 was unworkable. Are you tying those together directly, is that the place you think we have to start changing the amending formula before we deal with other changes to the nation?

DR. WATTS: I think it needs to be examined, and I say this with all deference because I think that several of the people who had a very large part in devising that amendment formula are around the table here, and so on. But I think the problem as it exists now, I'm not worried here about the technicalities of the procedure, but I think what has emerged out of the Meech Lake Accord experience is that almost certainly any proposal that comes out of

Quebec will be impossible to get the required agreement under the existing constitutional amendment procedure. And my fear is that if the existing constitutional amendment procedure simply produces a stalemate, again in the eyes of Quebec, that then Quebec will feel driven to say okay, no revision is possible under the existing procedure. The only way we can get it is by the unilateral declaration of independence.

And here in my experience of studying other federations is that where a unit has unilaterally declared independence, even when it has argued that subsequently it will renegotiate reassociation, that has never occurred, because the emotions, the reactions that arise over a unilateral secession movement, create a sort of heat and resentment that makes it very hard. It's like trying to remarry after a messy divorce, if you see what I'm getting at; it makes it almost impossible. There are other examples, I could cite them to you, but I won't bother here, where unit seceded saying, yes, after secession we will work out a form of association, and it has just never resulted. And therefore my concern is that the current amendment procedure, if it produces a stalemate, could drive Quebec into a position which would make it impossible for us to re-establish association.

MR. HORSMAN: Fred Bradley.

MR. BRADLEY: Thank you, Mr. Chairman. I was very interested by your remarks today, particularly regarding Meech Lake and if a number of parts of Canada were not able to accept the cosmetic changes which Meech Lake proposed. What is your view on whether Canadians would be willing to accept more radical changes, which perhaps is the course which Quebec is moving towards, and that -- we've had some discussion here with regards to a vehicle which could be used to bring Canadians together to discuss the Canadian Constitution; what is your view of what that vehicle would be, because right now there's some very diametrically opposed views of the country, and given your further statement about if one province moves in a unilateral direction, the bitterness which flows from that. What sort of vehicle would you see we could use to bring Canadians together to discuss in a realistic way without engendering that bitterness?

I had two other questions, perhaps too many to get an answer in the time frame we have. You mentioned briefly the question of

reform of the Senate, and there's some view in Canada that a reformed Senate could provide regions of the country with more say in the decision-making of the country. What is your view on an equal Senate?

And you also discussed the two poles, I guess, in terms of Canadian federalism, your view of how it's operated from a nation centered federalism versus collaborative federalism. Is there a middle ground, and are those two positions the extremes that we would like at in terms of models?

DR. WATTS: That is a lot of territory to cover, and if I do it inadequately, please press me further.

MR. BRADLEY: There may be others that wish to ask you questions.

DR. WATTS: On the first question, you had a number of sort of subquestions built into it, but certainly I have been concerned that the notion that if Canadians couldn't accept the cosmetic changes that were involved in the Meech Lake Accord, how could they accept more substantial ones. That's a real problem, except it seems to me that -- I'm not sure that Canadians had the opportunity or were given the information to fully understand what the alternatives might be. I know that there was a lot of concern that this might lead to the falling apart of the country, but I'm not sure that the nature of the alternatives was fully explored and developed, and therefore it seems to me that -- what it really amounts to is that the status quo will not stand. If we refuse to accept any changes at all, then I think it's unavoidable that Quebec will eventually leave, therefore the status quo is destroyed by refusing to move. And if we realize that, if that's the preferred option, all right, but at least let's examine what the implications of that are, what's involved, what will the remainder of Canada be like. Once we've examined that, we may not be so keen that that's the appropriate alternative to the status quo.

Then we need to look at the other alternatives and would they be better from our -- by our, I mean the rest of Canada -- point of view, the various possible options, changed forms of federalism. So the issue comes down exactly as you say to what is the vehicle of helping our fellow citizens to understand and to tell us which is the vision of Canada that they see

best? I think on Meech Lake, it was an assumption that well, we preferred the status quo to a change. My point is that the status quo won't survive, given the post-Meech atmosphere. And if the status quo won't survive, then what are the alternatives? And I think that what we need, and I think you've embarked on the first stage of it, is a process of public discussion, first of all, before we get down to constitutional details and talking about how one changes Section 91 or Section 94 or Senate membership or what have you, and I'm not decrying Senate reform. I think we need to give the public an opportunity to consider what the basic options are, what the choice of them is. This is a very difficult task.

In the past I've always argued that constitutional amendment is much easier if it is done incrementally, bit by bit. To try to make a huge, large, total revision is very difficult, and I cite here the example of Switzerland. Switzerland has, in the course of about 140 years of its Constitution, made something like 90 constitutional amendments. They have what seems a very flexible process. It involves referendum, by the way, but 25 years ago they decided they would, since the Constitution was a little over a hundred years ago old, they would try to do a total revision, clean it up and tidy it up. In the process they've had three different commissions, they've had all sorts of intergovernmental consultation, and they have been unable to agree on a total comprehensive revision.

And I think that experience points to the difficulty of trying to make a total revision. The trouble is, we have now driven ourselves into a position where incremental amendment is inadequate, insufficient, so we have a very difficult task ahead of us, and that's why I think this process of reaching out to the public and getting the vision of the public first is terribly important. I know that doesn't give you a simple -- if I had a blueprint, I'd gladly offer it, but I think what we do need to distinguish is getting an articulation of the public views, and that's an educational process. I don't mean a stamping of view on the public or so on, but I mean it's a two-way process; finding out what the public wants, but also informing the public of what the implications of the alternatives are. I think that was what was missing in the Meech Lake process. Then we will still need to have a negotiating process. Just public discussion isn't going to somehow generate a consensus. We've got to have an articulation of views, and then you have to have another process to articulate and pull it together into a consensus.

I may not have adequately dealt with that, but the two other questions: reformed Senate, I've for long been an advocate of Senate reform and so on, so I could go on at enormous length on the subject. And indeed, at a time when it looked as if the Meech Lake Accord might possibly pass, I had assumed that really the next year or two would be devoted totally to the question of Senate reform; that's what I'd be spending all my time on. But that's got sidetracked by the Meech Lake process; it will be part of the post-Meech Lake process, but only a part of it.

The problem about an equal Senate, let me start by saying, you know, I have no brief at all for the existing Senate. I think it's unique; no other federation has a Senate like our Senate, nor would it want one. And I could go into the reasons for that, but I don't think I need to, not in Alberta, certainly. I think the present form of regional blocks is inappropriate. On the other hand, whether it should be equal or weighted with favouring towards smaller provinces is something that we need to have a look at. Not all federations have equal representations. Switzerland, Germany, India are examples of three which have a weighted system; that is, smaller units have a heavier weighting than the larger, but they're not all equal.

My main concern here is that in most federal systems where they are multi-ethnic or multi-lingual, Senates are used to represent not just provinces, but also linguistic or ethnic minorities. And one of the problems of the political arithmetic in Canada is that one province which has a quarter of the population happens to represent the major, the largest linguistic minority in the country. So if you convert Quebec's representation to one-tenth, you're not reinforcing the representation of that linguistic minority, you're actually reducing it below the popular level. So there's a real problem of political arithmetic that needs to be built into the design, or redesign, to be more correct, of the Senate. I'm just identifying a problem there.

The two poles of nation centered and collaborative federalism. I would agree with you, we need to try to find the intermediate point. I believe that nation centered or emphasizing centralization to hold the country together is ultimately non-federal, that is it fails to recognize the advantages of a federal system, which is giving self rule and recognizing diversity. One of my very favorite quotations, which I've often quoted, I came across when I was studying the federal system in India, its establishment; and a gentleman there in the constituent assembly made the remark that

overcentralization leads to anemia of the extremities and apoplexy at the centre, and I think that applies to Canada as well. So I think exaggerated nation centered federalism is a disaster.

Collaborative federalism has something to be said for it in terms of recognizing the diversity, but on that side, it's important to note that nearly recognizing diversity doesn't hold the country together. You need to have some glue, some focus of loyalty for all the diverse groups within the country to look to. So I would argue for an intermediate position. We need to have a focus of loyalty for the country as a whole, that's the element of truth that the nation centered view captures and then exaggerates to distort it. We need to have a recognition of diversity and an accommodation of it, that's the part that collaborative federalism recognizes. But unless it recognizes the importance of a focus for the country as a whole, it carries it to an extreme.

So I agree with you, what we have to seek is an intermediate one and avoid going to one extreme or the other. Unfortunately, our historical leaders have tended to go, depending on the leader, from one or other of those extremes, but they usually get checked as a result, which shows the limitation of each of those approaches.

MR. HORSMAN: Thank you very much, Dr. Watts. We'll have an opportunity during the latter part of our morning to have a roundtable discussion, which will then no doubt bring us back some of the points you've already raised, and certainly I would like to suggest that you think about two issues that you touched on. One is the implications of the introduction of the Charter of Rights and Freedoms in the British parliamentary system of government, which has led to the second point, is the question of the legal versus legislative authority and the conflict which comes about as a result of elected people making decisions versus appointed people making decisions, and that I think is something we'll want to pursue at some greater depth as we go through this whole process. And perhaps you'd like to think about those things as we get around to that roundtable discussion.

Now, I'd like to turn, if I may, to introducing our next presenter, who is no stranger to Albertans. He is the Vice-President (Academic) at the University of Alberta, and he is a Professor of Political Science. He has been a long time constitutional advisor to the Government of Alberta and has participated actively in formulating the constitutional positions

that our government has taken to the table both in terms of the 1982 amendments to the Constitution and the position that our government took with respect to the now demised Meech Lake Accord.

We would like to have Dr. Meekison, who is a long time student of this issue and is recognized throughout Canada as a constitutional expert, make his presentation now on the evolution of Alberta's constitutional position. Peter.

DR. MEEKISON: Thank you very much, Mr. Chairman. I may too add my congratulations to you for establishing this task force. I think you'll find that the meetings you have across the province will prove to be very interesting. I think you'll find that my comments this morning follow closely on what my colleague Ron has said because I think -- perhaps I'll add some specifics to some of the principles which he has outlined.

Let me begin by going back to 1905 and saying that in one way or another, since the 1905 enactment of the Alberta Act, succeeding Alberta governments have been engaged in constitutional discussions. A question which occupied their attention from 1905 to 1930 was the transfer of natural resources. When Alberta, Saskatchewan, and Manitoba were established, the public domain continued to be owned and controlled "by the Government of Canada for the purposes of Canada." Without going into detail as to the justification for the policy, for the first 25 years of Alberta's existence, provincial governments of differing political persuasions endeavoured to convince the federal government to transfer ownership. In 1927 agreement was reached in principle, and three years later the Natural Resources Transfer Act, 1930 was included as part of the Constitution. One should read that amendment because it is far more comprehensive than Section 109 of the Constitution Act. One finds in the preamble the following statement:

And whereas it is desirable that Alberta should
be placed in a position of equality with the other provinces of Confederation with respect to
the administration and control of its natural resources as from its entrance into Confederation
in 1905.

And after the note the reference to equality with the other provinces.

Among other things it contains in a schedule the boundaries of the various national parks found in the province. It also contains references to Indian Reserves and anticipates future land claims settlements.

A few years later there was a tremendous series of clashes between the newly elected Social Credit government and the federal government. The federal government disallowed 12 statutes during the period 1923-1942, all in Alberta, eleven of them between 1937-1942. The total number of statutes disallowed in the history of Canada is 112, and so you get some idea as to where many of them were directed. The reasons given were either that the provincial statute was ultra vires or that it unjustly confiscated property. In addition, three statutes were reserved by the Lieutenant Governor which were subsequently declared ultra vires by the Supreme Court.

While today one may casually brush aside these early disputes, at the time they were central to the functioning of the federal system. These were clashes over jurisdiction, over center vs periphery, and they represent an important part of the constitutional maturation of the province. Moreover they appear to have influenced how succeeding Alberta governments have viewed the federal government.

What appears as a constant is that successive provincial governments have adopted a position which I would describe as one defending provincial rights. Indeed, Alberta appears to have been unswerving in its defence of this perspective on the federal system, which follows along, I think, on what Ron has said about the collaborative model.

Discussions on the Constitution over the past twenty years have been guided by this sentiment. In reviewing the position of the Alberta government since 1971, certain themes have been constant.

One of these is concern over the amending formula. Another is the division of powers. During the 1971 election the Progressive Conservatives rejected the so-called Victoria formula which was based on the principle of regional equality. Following along in his first major speech in the Assembly, the Premier stated: I want to reiterate and make clear in the record that there is no commitment by the Progressive Conservative Administration to that Victoria Charter. We enter into any future negotiations completely uncommitted by any past decision making.

There is a provision in this charter regarding an amending formula that is detrimental to the Province of Alberta, relative to the

Province of British Columbia. But more than anything else, the charter did not come to basic grips with the basic problem of division of responsibility and the allocation of fiscal resources.

Central to the criticism at that time and later was the notion of first and second class provinces. Under the Victoria formula Ontario and Quebec had a veto, British Columbia had a greater say in the west, and the other seven provinces were in a less favourable position. Put another way, the Alberta Government started to espouse the idea of provincial as opposed to regional equality.

A second theme has been natural resources. Beginning in 1973 energy became a major point of contention in federal-provincial relations remaining at or near center stage until 1981. The issue was not confined simply to the subject of proprietary rights but included jurisdictional questions as well. Beginning at the 1974 Premiers Conference and continuing until the Constitution Act, 1982, Alberta pressed for protection of its ownership rights and strengthening of provincial jurisdiction over natural resources. There have always been these two concerns -- the province as owner of the resource and the legislative jurisdiction over the resource -- two separate, but interrelated issues. It was in this spirit the province successfully challenged the constitutionality of an export tax on natural gas which was to have been part of the National Energy Program.

The twin questions of the amending formula and natural resources converged in a seminal resolution approved by the legislature on November 4, 1976. The resolution reads as follows:

Be it resolved that the Legislative Assembly of Alberta, while supporting the objective of patriation of the Canadian Constitution, reaffirm the fundamental principle of Confederation that all provinces have equal rights within Confederation and hence direct the government that it should not agree to any revised amending formula for the Constitution which could allow any existing rights, proprietary interests, or jurisdiction to be taken away from any province without the specific concurrence of that province and that it should refuse to give its support to any patriation prior to obtaining the unanimous consent of all provinces for a proper amending formula.

The linkage is clear. Without constitutional

protection or guarantee of proprietary rights, natural resource ownership and/or jurisdiction could be affected through the amendment process. Given the struggle to acquire the resources in the first place, the apprehension was understandable. To be sure, one might argue such a transgression would never happen. While that is probably true, a parallel would be to convince Quebec that protection of the French language could be left to the other provinces.

Understandably it is unlikely that Quebec would ever agree to such a provision and Alberta would not when it came to natural resources.

A number of other factors helped to shape Alberta's position. One was the federal government's spending power. When the Department of Federal and Intergovernment Affairs was established, one reason was to monitor this area and to assess the consequences of federal spending in provincial priorities. These concerns were clearly expressed by both Premier Lougheed and the then Minister of the Department, Hon. Don Getty, in their speeches in the Legislature.

Another was the 1975 anti-inflation programme and the significant extension of the emergency powers of the federal government into the economic sphere during a time of peace. Alberta, along with a number of other provinces, challenged the federal government's position when the matter was referred to the Supreme Court in 1976. They were successful in part in that the Supreme Court limited the claimed scope of federal authority to that of emergency only. The Court did not accept the argument of the federal government, which would have given new life to the national dimensions doctrine potentially leading to a major increase in federal legislative jurisdiction. Use of the emergency power surfaced a few years later in the Energy Supplies Emergency Act of 1979, which set up a rationing program if such were necessary.

These concerns and others were the principle ingredients which helped to shape Alberta's position on the Constitution prepared for the 1978 Constitutional Conference. The ideas were contained in a paper entitled "Harmony in Diversity: a New Federalism for Canada," tabled in the Legislature on October 19, 1978. The title reflects two key principles -- one that governments can work together cooperatively while at the same time retaining or preserving their distinctive character. In other words, federalism is predicated on diversity, and a healthy federal system requires effective

provincial governments. The recommendations contained in "Harmony in Diversity" were based on six principles:

(1) Responsible parliamentary government must be the basis of our system of government;

(2) The principles of constitutional monarchy must be maintained;

3) All provinces have equal constitutional and legal status within Confederation;

(4) Strong provinces make a strong, viable Canada, complementing the role of a strong federal government;

(5) Within their respective spheres of jurisdiction, the two orders of government -- federal and provincial -- are equal, neither being subordinate to the other;

(6) Each of the two orders of government must respect the responsibilities and jurisdictions of the other.

One issue of concern to the developing dialogue was not mentioned in the position paper. There was no reference to Senate reform. Other than for the province of British Columbia, this topic was not one of high priority with other provinces when compared with the division of powers. To this point Alberta's principle concern was what one might call the heart of the federal system, the division of powers and the nature of the relationship between the two orders of government. This clearly is the thrust taken in the position paper. Alberta was not alone in pressing this case. At the 1978 Premiers' Conference the ten provinces stated that the division of powers was the key to constitutional reform.

As far as individual's rights are concerned, the first bill introduced by the provincial government in 1971 was the Alberta Bill of Rights. Thus the province's commitment to human rights as .demonstrated by this legislation and the soon-to-follow Individual's Rights Protection Act was not in question. What was in question was the matter of entrenching a Charter in the Constitution. Alberta was one of a number of provinces which

felt that rights, other than language rights, could be protected without the need for constitutionalizing them. A similar position was advanced at the 1968 Constitutional Conference by then Premier Manning when the matter of an entrenched charter was first raised.

At the February 1979 Conference on the Constitution, Premier Lougheed unveiled what would eventually become the amending formula found in the Constitution Act 1982. It was based on the premise of provincial equality. It took some time, but eventually the other governments supported this position.

With respect to natural resources, Section 92A, which is not in the Constitution Act of 1982, did not give Alberta the degree of protection it had sought, but it did meet a number of its concerns. Moreover, it was the first amendment to the Constitution since 1867 to transfer jurisdiction from the federal to the provincial governments.

With proclamation of the Constitution Act in 1982, interest in constitutional reform receded as a national past-time. And yet the Constitution remained unfinished business because the 1982 Act had been adopted over Quebec's objections. The matter would resurface four years later.

The next phase in the development of Alberta's position I would call the quest for Senate reform. It starts with publication in August 1982 of a paper entitled "A Provincially- Appointed Senate: a New Federalism for Canada." The position advanced at that time paralleled in most respects other reform proposals which had been developed over the preceding decade. Without going into detail, the proposed Senate would be similar to the German Bundesrat in terms of its composition and functioning. While the paper still referred to the Chamber as a Senate, other similar suggestions had called the chamber a Federal Council or House of the Provinces. It soon became apparent that a provincially appointed Senate had little appeal to the people of Alberta. Had the chamber been called something other than Senate, public reaction may have been different. The reaction, however, indicated there was public interest in Senate reform, but not along the lines outlined in the paper.

In November 1983 a legislative committee, chaired by Dennis Anderson, was established to look into this matter. In the spring of 1985 it produced a report calling for comprehensive Senate reform advocating a triple E model. Thus, in a matter of a few short years, on the

question of Senate reform Alberta went from a position which could be described as one of indifference to one of committed advocate. Indeed, Alberta became the leading provincial proponent of Senate reform.

At the 1988 Premiers' Conference, Alberta was given the lead responsibility on this question in that the other provinces were willing to see Alberta discuss ideas and concepts with the other governments and present its findings to the 1989 Premiers' Conference. In this respect it was to play a role similar to that played by Quebec in the round of discussions leading up to the Meech Lake agreement. Accordingly, Premier Getty established a task force on Senate Reform. It criss-crossed the country meeting with other governments, the media, and university classes explaining the Alberta Legislative Committee report and listening to what individuals and governments of the other provinces thought about Senate reform. The Honourable J. Horsman gave a report to the Premiers at the 1989 Premiers' Conference, and the mandate from the other provinces was extended.

As a member of the Task Force it became clear to me that most other provinces had given little thought to this question. They were prepared to listen, and indeed, became increasingly interested in this subject. This is particularly true of the other western and the Atlantic provinces. Their interest is understandable given the concentration of population in Ontario and Quebec. Indeed, it became abundantly clear in western Canada after the 1980 election that somehow western representation in Ottawa needed to be strengthened. If it was not possible through the Cabinet, then another logical alternative was through a reformed Senate.

With the collapse of Meech Lake, the matter of Senate reform will in all probability be put on the back burner. Recent events in Ottawa might change that or indeed lead to calls for its abolition. Having said that, I cannot see an amendment as being likely as I cannot see the federal government proceeding with one without Quebec's participation in the process (or at least acquiescence). To me this is an extremely doubtful prospect. Thus I would not pin much hope on a discussion of this issue in the foreseeable future.

One final comment on Senate reform was the election of Senator Stan Waters. While apparently a one-time event, the precedent has been established and will continue to give impetus to the reform movement.

Let me now turn to Meech Lake. It has been an accident of history that Alberta has hosted the annual Premiers' Conference when the Constitution was of paramount importance. This was true in 1964 when the Fulton-Favreau formula was discussed and developed in 1976 when the ten provinces had been challenged by Mr. Trudeau to find and develop a common constitutional position. The results of those discussions are found in an exchange of correspondence between Premier Lougheed and Prime Minister Trudeau in the fall of 1976.

In 1986 it was Premier Getty who gave the necessary leadership. At their 1986 Conference the Premiers agreed to the Edmonton Declaration which paved the way for Meech Lake. The five conditions outlined by Quebec were "their top constitutional priority" and would be negotiated first, followed by a second round where matters of importance to other provinces would be negotiated. In other words, the process would not end with the Quebec round. This principle, along with the first two agenda items for the next round -- Senate reform and fisheries -- were contained in the Edmonton Declaration and subsequently in the Meech Lake agreement.

There were two other proposals in the Meech Lake agreement suggested by Alberta; an interim method of selecting senators, and a requirement of annual meetings of First Ministers on the economy. The first was introduced as one means of ensuring a federal commitment to reform. Recent events illustrate the significance of this clause had Meech Lake been ratified. The second proposal would constitutionalize the practice of annual meetings of First Ministers on the economy that has evolved in Canada over the past fifty years. A similar provision was contained in the 1971 Victoria Charter. Moreover, it is something which has been advocated by Alberta for some time and is one of the recommendations found in "Harmony in Diversity." The annual conference on the economy accurately reflects the reality of interdependence within the federation.

Two other provisions of the Meech Lake agreement warrant attention. One is the statement in the Preamble endorsing the principle of provincial equality. The second was the commitment to an early start on Senate reform. Because ratification was protracted, the promised conference did not occur. Nonetheless, the priority of Senate reform was reaffirmed at last June's marathon conference. Indeed, the consensus document

represented a good beginning to reform. From a topic of limited interest in 1986, it had become one which had far greater appeal. To be sure, the June agreement was not reform, but it certainly laid a strong foundation for that reform.

Going back to the Meech Lake agreement, Alberta could support it for a number of reasons. Some of the provisions were ones previously identified by the province in its position paper "Harmony in Diversity," for example, limitations on the federal spending power and annual First Ministers' Conferences on the economy. Alberta had tried in the mid-seventies to negotiate an immigration agreement similar to the one between Quebec and Canada (the so-called Cullen Couture Agreement) but had been unsuccessful. Also, as already mentioned, it assured a continuing dialogue on the subject of Senate reform.

For these reasons and for the obvious one of national unity, Alberta endorsed enthusiastically the Meech Lake agreement. On both many constitutional questions and the role of provinces within the context of the federal system, Alberta and Quebec have often expressed similar views -- essentially a belief in strong provinces and support for provincial autonomy.

One final point needs mentioning in this overview -- aboriginal rights. During the period 1983-1987 this was the principle subject of constitutional reform. Although an amendment was approved in 1983 and proclaimed in 1984, further constitutional amendments requested by aboriginal people were not realized, much to their disappointment and consternation. Alberta adopted the position that "self government" needed to be clarified before it would give its agreement to any amendment. To that extent aboriginal constitutional questions remain as unfinished business today, just as Quebec's concerns were in 1982. This reality was dramatically demonstrated last June by Elijah Harper's role in the demise of the Meech Lake agreement despite the commitment to a resumption of discussions by the eleven governments in their June 9th agreement.

In summary, Alberta has played a leading role in recent constitutional discussions. It has developed its positions over a long period of time, and they have been reasonably consistent in this area. These positions have been the subject of numerous debates in the legislature. The position on Senate reform was the result of extensive public hearings. To date

Alberta has been highly successful in achieving its objectives ranging from the amending formula to Section 92A of the Constitution Act. It has brought to the fore debate on Senate reform and through its Senate Election Act achieved another goal. It has been a firm advocate of provincial autonomy and has not hesitated to use the courts to uphold its position.

The future is at best uncertain and at the worst, very troublesome and difficult. In my view -- and I am not alone in this and Professor Watts has alluded to this -- the collapse of Meech Lake is a watershed in Canada's continuing constitutional evolution. Those who said it did not matter will, I fear, be proven wrong. The recently established Quebec Commission on the Political and Constitutional Future of Quebec cannot be dismissed as either a colossal bluff or an exercise in public relations. While members of the Quebec Commission may disagree amongst themselves, they are likely to agree on the outcome, and that is simply that the status quo is no longer acceptable. If Meech Lake was seen as decentralizing, it will pale by comparison to what is likely to emerge in the Commission report due March 28, 1991.

What does all of this mean for Alberta? The answer is a great deal. For one thing, if the status quo is being challenged, and believe me it is, then Albertans should begin to ask some probing questions of their own. This committee will start the process. It will undertake its important task at a time when people are tired of constitutional discussions. To quote the Pepin-Robarts 1979 report, A Future Together, "even crises can become tedious and difficult to believe in if they go on too long and if nothing seems to happen."

I fear part of the public may be of this mind and want governments to devote their attention to issues such as the economy, interest rates, the environment and free trade, to mention a few other major challenges facing our nation, and simply to forget the Constitution.

You will also undertake your task at a time when lines are being drawn on this question. This was clearly demonstrated a year ago at a convention of the Reform Party in Edmonton. The headlines in The Edmonton Journal read, "End Demands or Leave Quebec Told" -- and all of this before the demise of Meech Lake. Before we so quickly dismember the country or give that appearance, we should consider its many advantages and what we have managed to achieve north of the 49th parallel.

The first lesson from Meech Lake is that the public must be involved in the process in some way. It is clear that governments, before they enter into the next round of negotiations, will need to ascertain what the public thinks about this question. Public participation is now essential to the process of constitutional change. How that input is achieved will vary from jurisdiction to jurisdiction. Unlike the Meech Lake agreement, the agenda is at best fuzzy and at this time unknown. It is one thing to say, please give us your views on the Constitution in a completely unstructured manner, and quite another to say, tell us what you think about these specific proposals contained in a draft constitutional text. A happy medium is to do both. This was the process followed by the Macdonald Commission in 1983. They held preliminary general hearings, which led to a more focused approach, after they had published their preliminary findings. So did the B.B. Commission in 1965. They first published their preliminary report in 1965 outlining some of their initial impressions and concerns. This was followed by a series of reports containing specific recommendations.

If the status quo is no longer acceptable, one must also agree on what is the status quo. What are its benchmarks? What are its characteristics? That may not be as easy as one thinks. For example, would there be agreement across Canada on the existing roles of the federal and provincial governments? Does provincial equality exist, or is it an objective yet to be achieved? Do we agree with the idea of equalization payments across the country?

Looking to the future and a change in the status quo, one finds even more difficult questions, depending upon the assumptions one makes. It should be recognized at the outset that asking some of these questions may cause some discomfort, but they need to be asked, alternatives weighed, and potential solutions which may defy conventional wisdom suggested. And I agree with Professor Watts, we must be radical in our approach. Questions such as:

(1) Should a different political arrangement be negotiated with Quebec? If yes, what does this do to the idea of provincial equality? If yes, what is the composition and mandate of the Parliament of Canada? If no, does Quebec take precipitous action?

(2) Should there be a different political arrangement with Quebec, will there be a push for "centralization" as individuals such as Rene Levesque and others have suggested would automatically follow? In other words, has Quebec been an anchor on the rest of Canada?

(3) Alternatively, would provinces such as Alberta continue to support the idea of provincial autonomy? Indeed, would a more confederal model follow?

(4) What shape would our central institutions take, such as the Senate and Supreme Court, under a different political arrangement?

(5) What does provincial equality really mean? We know that provinces are not equal in geographic size, population, natural resources, and their economies. Is a redefinition required, or does it mean equal legislative authority, equal say in constitutional amendments, equal say in upper chambers?

(6) Is cabinet government, with strong party discipline, compatible with federalism?

To a great extent these and other broad questions need to be addressed. Federalism presupposes diversity or differences. In a country as vast as Canada, some type of federal arrangement is almost inevitable and required. While linguistic differences are part of our federal system, are we prepared to accept other kinds of differences reflecting again our diversity? Or have we become too homogeneous? Are we still willing to accept the fact that there are and will be differences across the country and that these differences can be seen as a plus and not a negative.

Assuming it is in our interests to stay together, can we find creative solutions which will allow this remarkable experiment in nation building to continue. One must assume there are values that bind us together and that the shared experiences over the past 123 years transcend those issues which may tend to divide us. Central to this debate is the division of powers. Agreement on a new division will be difficult with or without Quebec. Even then, rather than try to develop a precise list, other devices may be considered which allow governments an opportunity to make changes incrementally. We tend to think in terms of watertight compartments. While such a concept is crucial to drafting the original division of legislative

responsibilities, it also assumes no leakage over time. Other techniques which will permit differences to be expressed need to be developed.

Four ideas come to mind. This is along the lines of Professor Watt's opting in and opting out. There are probably others.

(1) A provision allowing the federal or provincial governments to delegate their authority. This idea is not new and is found in the Fulton-Favreau formula and in "Harmony in Diversity."

(2) A provision in the Constitution permitting federal-provincial agreements in certain specified areas. In 1975 Mr. Trudeau proposed this approach. One can see a link between this and certain provisions in the Meech Lake Agreement.

Without going into the provision, he wanted to pose a series of agreements in the areas of immigration, communication, and social policy.

(3) Greater use of concurrent legislative powers. To me a classic example is Section 94A which reads:

The Parliament of Canada may make laws in relation to old age pensions and supplementary benefits, but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter.

When it was approved in 1951, one could not have anticipated that the Canada and Quebec Pension Plans could co-exist without the country coming apart.

(4) Finally, a greater use and constitutional sanction of interprovincial agreements.

I raise these more of a way of illustration to show various ways in which flexibility can be achieved within the federal system. Each point referred to makes it possible to accommodate the diverse interests which make up our policy. This approach may no longer be even feasible, but along with some institutional changes, a new federal arrangement may be possible because it makes change possible without insisting on specific changes today.

What about timing? One can sit on the sidelines and wait for Quebec's report, that is to say, watch things happen. That is a viable strategy. Alternatively, one can help to make things happen. There is always risk in the latter course because one cannot predict or control the outcome. To date Alberta has chosen the latter course, and I would encourage you to continue to do so. Why? Because the ideas and issues need to be explored now so that when the future negotiations are held we will have some idea as to what priority and importance the public attaches to these fundamental questions. I'll stop at that point, Mr. Chairman.

MR. HORSMAN: Thank you very much, Dr. Meekison. We appreciate that we're running slightly behind our schedule, but the Panel would like to pose questions to you. Would you please let me know, and I'll recognize you. Task Force members. Dennis?

MR. ANDERSON: Dr. Meekison, you have given us a lot of information with respect to where we might start as a committee, which is helpful. What fundamental questions in addition to those you've outlined regarding Quebec's future could we ask Albertans today to ensure that the place of this province in confederation is maintained in any federal system that may evolve as a result of the discussions over the next while?

DR. MEEKISON: I think one of the answers to that, Dennis, is quite simply, how does Alberta want to see its future by saying do we believe that we should continue on a path we've already chosen, namely the strong provinces. I think at the same time you would have to begin to assess more carefully greater western cooperation and the possibility of the west forming some kind of political union, but greater interprovincial agreements or greater series of agreements amongst the whole western provinces. I think that the west has in the past 20 years tended to work together, but they have not really spent much time together working out a common Constitution position. That's one of the first things I would recognize. Does the west itself have some identity, and does Alberta want to be part of that?

MR. ANDERSON: If I could, one more, Chairman. Both Dr. Meekison and Dr. Watts referred to the fact that without Quebec in

confederation, half of the control, essentially, the seats would exist with Ontario. Did I hear you saying, in fact, that we could not in the current system of our federation have the same protections for our province if Quebec left; in other words, the status quo in that regard would not work if Quebec was not a member of this nation in the way we know it today?

DR. MEEKISON: I think the answer there is that it assumes that if Quebec leaves, then we have nine provinces and everything else remains the same. My position on that is it won't remain the same, and that yes, you will have nine provinces, these provinces may have to consider different political arrangements such as, for example, Premier McKenna (phonetic) has talked about the idea of a maritime economic union, would we want to consider some form of political union, would the other provinces, and reunite Canada in some different structure at the centre where you have three equal parts, but each sending, in effect, representatives more along a confederal line, along the lines that Professor Watts has raised.

My sense is that with half the population residing in Ontario, and really not in Ontario, certain parts really concentrated in central Ontario, you're going to find the -- I'm saying we don't like that arrangement, we want something to balance that. So you would begin to focus on, I would say, a reform Senate where you have equality, and I think you would find then that people might say I don't really know if we like the idea of equality here because that could lead to some kind of stalemate with the upper house blocking the interest of the lower house. At the same time you might argue about, really, given the economy of the country, of this -- the rest of Canada, if you like, you might find some concern expressed that parts of the country, without identifying which parts they are, might become captive of the other parts, and therefore the quality of the Senate might be more elusory than real in that some parts might be beholden to other parts. so I think you would find that people say we don't like it, just taking one part out, and the rest continuing on business as usual is just not going to happen. So in effect the constitutional order as we know it today will in effect be set aside.

MR. ANDERSON: Thank you.

MR. HORSMAN: Thank you. Before we break, and we're going to

break quickly for coffee and then resume for our roundtable discussion, can I have a quick answer from either one of you gentlemen: Is Canada a confederation as we signed in 1967, that great song about confederation, or is it a federation?

DR. WATTS: I'll be happy to try to answer that. Peter may want to add his addition.

This is because of the ambiguity or double meaning of the word confederation. As I've used the term, and most political scientists use it, they contrast confederation with federation and unitary systems, but the word confederation can also mean bringing together into a federation, thus you get the paradox that the Swiss Constitution has the formal title, The Federal Constitution of the Swiss Confederation. Now, there the notion is that the Constitution is federal, but it's a bringing together of 26 cantons, and that bringing together is confederation.

And I think we do the same thing in Canada. We speak of confederation in 1867 as the bringing together of what was then Ontario, Quebec, Nova Scotia, New Brunswick, into a federation; so I would -- I'm glad you raised the point; I actually had it in my notes to mention, but shortage of time led me to skip over it. So I would say we are a federation in terms of the categories, but the process of bringing together into a federation was referred to as confederating.

MR. HORSMAN: Do you disagree with that, Dr. Meekison?

DR. MEEKISON: Mr. Chairman, I would not disagree with Professor Watts, but I would like to add to it. We are a federation, and I think we are an excellent example of what a federation is and how it should work. I think the word confederated has been used as a verb in the sense that we have two confederations. The other thing is if you look at the confederation debates, Sir John A. Macdonald used that term to distinguish us from the United States. At that time federalism was not seen as necessarily a good thing, and he tried to find a word which would distinguish us from our great neighbour to the south, to quote him, and I think you would find that he was trying to be very careful because he had a different political arrangement in mind than the one to the south.

MR. HORSMAN: Thank you. Well, that's helpful because I recall on July 1st, 1967, singing long into the night "it's the 100 anniversary of confederation", but I should have been singing it was the 100th anniversary of the Act of confederation is what you're telling me.

Let's take a break for coffee, and we'll come back in 15 minutes. Thank you.

(Coffee break.)

MR. HORSMAN: Ladies and gentlemen, could I please have your attention once again.

Before we commence our roundtable discussions, I know that some questions have been coming in already for the Panel, and I'd like to just give you a brief outline as to the next set of discussions. They will take place in Calgary a week from today, nine o'clock in the morning, following the same format. They will be held in the MacDougall Centre in Calgary, which is the government centre in that city, and we will follow the same format.

The topic there will be described thusly as the dimensions of Canadian federalism, and the speakers who have confirmed to date are Professor Anne McLelland (phonetic) from the University of Alberta, who will concentrate her attentions on the Charter of Rights and Freedoms, that of course has obviously specific concerns relating to equality rights between the genders; and Stratter Crowfoot (phonetic) of the Sica (phonetic) nation in the Blackfoot reserve, Blackfoot nation, on the issue of aboriginal rights.

We will then want to discuss institutional reforms, particular emphasis on the nature of the Senate and the House of Commons and the Supreme Court of Canada and the way by which determination is made at the present time and in the future on the interpretation of the Constitution. Our speaker yet has not been confirmed on that, so I'm not going to give the name in case it doesn't confirm, but we will have an expert on that particular issue for the next week. So we will have three presenters next week.

I have a question which came to me from a lady who was unable to attend for the balance of this morning. She says, "because I am a woman, already I feel alienated from the constitutional reform process." She says, "for any legitimacy with Albertans, there must be equal representation of men and women. Where is Marjorie Bowker, where is Anne

McLelland"; well, she's coming next week; "and where are representatives from the native community?" Well, first of all we have a representative on the Task Force, and the person is Pearl Calahasen. And next week we will have discussion on that issue from Mr. Crowfoot, as I indicated earlier. So we are indeed going to cover those aspects of the discussion as we move through them as well.

We've had an interesting two presentations, and we've touched on some questions. Now I'd like to engage in a roundtable discussion, and I have a number of issues that I'd like to raise, and I touched on a couple of them, but I know other members would want to start in on the process as well. Does anybody wish to start off before I get involved? Ken? Ken Rostad.

MR. ROSTAD: Chairman, I have a question I was going to ask Dr. Watts before. In his comments he said there was a historical trend to more centralized power in federations. Are the U.S.S.R. and Yugoslavia aberrations or in the 19 federal states do you find that suddenly we're doing a reverse to the trend, the historical trend?

DR. WATTS: I'm glad you drew me out on this one because it was a passing quick statement. It's one which one can clarify a lot more. Kenneth Wheare, when he wrote his classical book Federal Government, writing in 1945, identified this as a common -- that is the trend over time to centralization as a common trend in most federations. However, I think it would be fair, and therefore often minority groups have been worried that that might be what would happen, not the least some people in Quebec.

On the other hand, I think some contemporary writers -- I think of Dan Elazar in the United States, for instance -- have emphasized that towards the end of the 20th Century there has been a slowing down of that trend or even a reversal of it, not just in Canada, but also, for instance, in some respects in the United States; what has been developing in the United States is the Federal Government has retreated from certain areas to what there is called fend for yourself federalism, which I think some provinces in Canada might think was happening here too, and in some other federal systems there has been a reassertion of the importance of the regional units.

I should emphasize that when I use the word

regional units, that's a shorthand for provinces, states, lender, et cetera, because they all have different labels; I'm not talking about Canadian regions. So that I think it would be fair to say that amongst those assessing the current situation, in most federations the trend towards excessive centralization has slowed down or even been reversed.

Now, the specific example of the U.S.S.R. and Yugoslavia represent rather unique situations because they were probably the most excessively centralized federations of all, largely because of one party dominance in both countries. With the breakup of that one party dominance, both of those federal systems are in the process of virtually shattering and may not even survive, but that is really a case of the very specialized pathology of one party dominated federal systems, which I don't think automatically carries over into other federations which have bi or multi-party systems, but I think it would be fair to say that the trend up to 1945, if you look at the United States, for instance, or Switzerland or Australia was clearly a pattern of centralization, and people took it for granted that that seemed to be the long run trend, but I think that's changed in the last 30 years.

MR. HORSMAN: Stan Schumacher?

MR. SCHUMACHER: Thank you, Mr. Chairman. I want to say I appreciate the presentations we've had from Dr. Watts and Dr. Meekison, and Dr. Meekison has refreshed our memory about the history of our province a little bit and our provincial rights stands. Right now, as Dr. Watts just said, this new phenomena of fend-for-yourself federalism, it seems to result from an accumulated deficit, resulting in debts. Right now our country is facing a new tax regime. It's always been my view that the main problem with our federation has been the abuse of the spending power by the Federal Government to get into areas of provincial concern and jurisdiction with a consequent result of further abuse of the principles of our federation, an attempt to pay for that abusive spending.

Now we've got a new tax regime being presented to us in the form of the Goods and Services Tax, and myself, I just have a fear that that will just add new resources to the centralizers in our country, and myself, I believe that any new federalism will have to address that area, but I think that's a concern of Alberta in particular. I don't know how much it's a

concern in other parts of the country, and I'm just wondering whether you feel that the Goods and Services Tax could have practical implications on the views of at least the Federal Government in these new discussions that are going to be affecting us. And I guess it's to both of you, but Dr. Watts first.

DR. WATTS: Obviously one can tell by reading the newspapers there is concern about this all across the country, although I have the impression that it's probably strongest of all in Alberta, which is not to say that it's unique to Alberta. Of course, the degree to which it's centralizing or decentralizing may very well depend upon the degree to which cooperative arrangements are worked out between Ottawa and the particular provinces. What I have in mind here is that Ottawa has apparently already reached an agreement with Quebec about the way the GST would be handled in Quebec, and some have argued that that will in the long run increase Quebec's powers enormously, that particular arrangement.

So that while it has the potential to be what you fear, I think -- and I'm not talking about the pros or cons of the GST itself, I'm just talking about the intergovernmental arrangements for it -- I think that a lot would depend on what sort of arrangements were worked out between the two levels of government for its administration, bearing in mind what the Federal Government was apparently willing to negotiate with Quebec on.

MR. HORSMAN: Dr. Meekison?

DR. MEEKISON: I think the question that you raised is critical to, not only the current discussions, but to any future rewriting of the Constitution. Basically what you're asking is getting the division responsibilities in line with the division of revenue sources, and I don't think any federation to date has been successful in balancing this.

The other question you raised with respect to this particular tax gets one into the discussion on so-called tax room; one government absorbs the entire tax in capacity, and it leaves nothing for the other government to undertake its important responsibilities.

The third thing which I think you get into here under the spending power is it's not just the Federal Government spending in the areas of provincial jurisdiction, it's what it does in terms of dependence in

making some provinces almost wards of the Federal Government, and if you look at percentage of provincial revenues that are derived from the Federal Government across the country, they vary considerably, and indeed this is the point I was raising with respect to Mr. Anderson's questions. At some point, some of the provinces are so dependent on the Federal Government, they are not really autonomous in any meaningful sense. So the tax, once it's there, if it's expanded, it can affect all the provinces very much.

MR. SCHUMACHER: I guess this is supplemental, my observation that -- I think generally people in Alberta are concerned about the renewed federalism, but I don't know how much that desire pertains in some other parts of the country, particularly Atlantic Canada, which seem to have gone from a position of strength at the time of confederation into a position of dependency now. Do you think there's enough strength left in those areas to really participate in Constitution or renewal, Dr. Watts?

DR. WATTS: I think this is a very important question because going back to what I was saying comparatively, putting Canada in a comparative context, one of our problems is being that we probably have one of the largest disparities between large and small provinces among existing federations. It is true that if you compare California to Rhode Island, there's an enormous difference in terms of population, and hence functional capacity if we're thinking of it in those terms. But California is only 10 percent of the population of the United States, whereas if you look at Ontario, it's more than three times that in terms of the total population.

So we have this enormous range between a province the size of Ontario and Prince Edward Island, and therefore the question is, can a province like Prince Edward Island perform the sort of functions that an Ontario can perform? Now, Alberta is in the larger end of that scale, though smaller than Ontario by a substantial amount, but has quite a bit in the way of resources to support its claims.

It's this which has led some people to advocate, and Peter touched on this, that one potential form of reform, especially if you want to have equal autonomous strong provinces, is to lump the smaller ones together to create new larger units. And clearly the first candidates, if that were to be done, would be in the Maritimes, where you have the smallest

provinces.

Now, it's hard to override history a couple of hundred years of separate existence and so on, both before and after confederation, so that's not an easy thing to do, and each of them has their distinctivenesses and differences and so on, but it has been suggested that a four or five region candidate might enable each of those regions -- I'm now using region in the sense that Peter referred to it, for instance, a Maritime or Atlantic region, prairies or western region, as a basis on which each of those would be able to maintain the sort of level of autonomy that Alberta has aspired to and that Quebec has aspired to and so on, but which is hard to do with the existing units.

Now, historically I would suspect that the people of Alberta would not want to give up very quickly their autonomy in the shape of the existing province into a larger region, and that will certainly be true in the Atlantic as well. So it's not an easy one to achieve.

MR. HORSMAN: Just to jump in, if I could, it's often, in a historical context and even today, I'm sure, very difficult for Atlantic provinces, and people do hear somebody from upper Canada suggesting that they amalgamate into one unit, as it was from our perspective not so long ago, and the then premier of British Columbia suggested that they be classified as a region and that the prairie provinces "be lumped in together", Manitoba, Saskatchewan, and Alberta. There was not a lot of support for that here, and that is part of problems that I think we face in terms of the traditions and the history and the development of this --

DR. WATTS: Could I just add a quip on that, that I've heard Manitobans object to that because they said in any such region, the Albertans would dominate.

MR. HORSMAN: That may be true.

Pearl Calahasen.

MS. CALAHASEN: Thank you, Mr. Chairman. I'd like to say thank you very much, first of all, for the presentation. I found in reading all the information that it's really not quite as easily assimilated as when you listen to

somebody speak. Some of the questions that I do have are relative to some of the comments you have brought, Dr. Watts. I'd like to question some of the -- particularly when we're looking at the federal form of government and the two orders of government, and I brought this up to you earlier and I'd just like you to reiterate some of the answers that I elected from you, and that is looking at the administrative versus the legislative and therefore the decentralized view of power and how it impacts upon not only the provincial governments but also the centralist or the view of what we call a Federal Government. I'd like to hear particularly on that one.

And then the second one, if I may bring out all the questions that I'd like, is basically when we're looking at federalism that there's not one pure model; however when we're looking at the central government increasing decentralization, what impact does self government or self rule of regional minorities have on that particular context?

And the third one, and I think you brought it up, Dr. Meekison, is the idea of the Senate reform, and I think you did too, Dr. Watts, is that when we're looking at the Senate in terms of reform and the role of the Senate in terms of when it was established as the second sober house, if you will, and then we find that it really doesn't fit in the context of today, so we're trying to do a reform, but yet when we look at the reform and we're looking at equality of provinces, how does that impact on the democratic system in terms of representation by population, and how does that fit into what it is that we're trying to do in terms of reform?

And then the last one is the aboriginal rights. In terms of them, of it not being addressed, of the aboriginal rights not being addressed, how can we incorporate those particular concerns that the aboriginal people have in order for us to be able to ensure that those concerns are brought forward not only in the roundtable discussions as we are going to be doing in the future, however, how else can we ensure that some of the concerns, both in a background perspective as well as a present perspective and in a future perspective, when we're looking at not only the self government perspective, but also looking at the idea of having representation by the different groups of people and looking at the multi-cultural nation that we do have.

MR. HORSMAN: You posed a number of questions, and I think we'll give our presenters an opportunity to answer them, perhaps both if you

want to add -- don't hesitate between the two of you to decide which of the questions you want to respond to.

DR. WATTS: Perhaps I could go through them quickly, and then Peter can round out from the Albertan point of view the particular things.

We talked about some of these questions during the coffee break, so -- but there are four questions here. I'll try to be brief because they cover a lot of ground, but when I was talking about the fact that there was no pure model of federalism and different ways of dividing jurisdiction, one of the examples here was that in some federations, most notably Germany and Switzerland, there is a fairly high concentration of legislative jurisdiction in the central government, but there is a constitutionally mandatory delegation of the administration of that to the states or the cantons.

Now, how does that work in practice? If one level is going to legislate and the other is going to administrate, you've got to mesh in some way, and I think the classical solution to that is found in the German case that I mentioned to you which is, all right, you then create a second chamber which is composed of representatives of the provincial governments, and you give them a veto on the laws which they have to administer, and that's the Bundesrat that Peter referred to. So you get an interaction or interpenetration of the two levels of government. In other words, the states have a real impact on national policy banking, which is not what we have because of our form of Senate. So that that's the way in which this division of legislative and administrative spheres is meshed is by the character of the central institutions providing representation for the states.

On the issue of self rule for regional minorities, I wasn't quite sure whether by regional minorities you meant minorities within the provinces as opposed to minorities within the federation, but I assumed you meant minorities within the provinces. There are various arrangements for this in different federations. It's obviously a concern to our aboriginal peoples, it's a concern to our Francophone minorities outside Quebec, or Anglophone minority within Quebec, and so on. The traditional Canadian solution to that has been to make that a responsibility of the Federal Government, in effect, so we made status Indians an item on Section 91, for instance, you know, that sort of thing, but that does create some problems because the question is how do you get that to mesh better with the issue of provincial autonomy. I don't

think there's any simple or easy or clear solution to that, but certainly in some federations there's been an effort at the provincial level to provide a place for those minorities, some special arrangements, to ensure their representation or their participation in the process and so on. There's no single model for that, but a recognition of that problem in those federations where it exists.

In the Swiss case it's not a problem because most of the cantons are so small that each of the individual cantons tends to be homogeneous. Although the federation is tri-lingual, most of the cantons tend to be uni-lingual either in French or German or Italian, as the case may be, although even there there are a number of cantons that are themselves bi-lingual, in other words, have more than one linguistic group. And so embedded right in the canton in those cases is a provision for more than one group.

The third one on Senate reform, the objectives of the reform, this is a very large topic and one that I'd be very interested to get into, but perhaps for the sake of time I'll be brief, and then if others follow it up, get into it more. The particular question you raised is an important question, that is, you have really a conflict here of what might be called one kind of democracy with another kind of democracy. One kind of democracy which you recognize the importance of particular national minorities by giving them autonomy within their own units of self government, that is the provinces; but of course insofar as you push the notion of the equal representation of those in national institutions, you are then making the representation of individual citizens unequal.

Or to put it another way, to take the most extreme example, if Prince Edward Island and Ontario had equal representation in the Senate, in an elected Senate, it would mean that each elector in Ontario was getting a tiny infinitesimal fraction of the weight that each elector in Prince Edward Island was getting, but the point is you have to reconcile those two principles. Simply one man, one vote by itself is a principle that federalism, per se, denies; that is, federalism itself is a denial of one man, one vote, or one woman, one vote. It's because it's recognizing the importance in any democratic system of not just counting noses, but of recognizing that particular minority groups need to be given protection whether it's through their own provincial governments or through other protections and so on.

And indeed, there are some federations in which,

in addition to representing the provinces or states or whatever they're called, India is one example, there is a certain number of seats reserved in the Senate for specific minority groups such as aboriginal groups and so on. In other words, that's an effort to recognize that the Senate represents not just provinces, but minority groups, and that pure one person, one vote is not the only element in a democratic process.

In your fourth question relating to aboriginal rights, there are two aspects to this, of course; how does one arrange for participation of aboriginal groups in the process of constitutional revision, and then what sorts of provisions do you make for them in the ultimate structures that evolve. So the two questions, that is what is the end goal, the objective, and the structures that result, but I would say that there are a variety of arrangements possible in terms of the end results that have been used in other federations, and we need to work out which of those are most appropriate for us. But that working out process takes us to the other one, that is the means to getting there, what are the processes by which they will have an input into the constitutional revision process. It seems to me in the light of events of the last decade and specifically of the past summer that there is growing Canadian consciousness of the importance of ensuring that that participation occurs in the process.

MR. HORSMAN: Thank you very much. Dr. Meekison, would you like to add?

DR. MEEKISON: I think there are one or two points which I might add to the questions. The first is that I think we discount the importance in Canada of what I call executive federalism. I know it's been discredited because of the way the Meech Lake agreement was reached, but the fact of the matter is that intergovernmental dialogue and discussion, I think, is healthy, and when you don't talk you have problems because you don't understand why or how certain things are happening. There are many successes in this area. If you look at some of the early agreements on energy, the governments did come up with agreements with respect to sharing, on pricing, on revenues, on taxes, on a variety of things, and it worked. It worked because there was consultation. When there wasn't consultation, that's when you have division.

Ron has commented on the Senate. I think

basically in a federation you have to have people represented at one area, and in the upper house you have to have other things, groups represented. And if you look at the United States Constitution, when they were drafting it, the large states said everything should be done on representation by population, the small states said everything should be done on the basis of state equality in both houses, and the so-called genetic comprise was let's do one house one way and one house the other way, and people thought, that's not bad.

Now, in terms of aboriginal rights and multi-cultural, Ron has also said that you can have different individual groups represented in the chamber as well. So in redefining an upper house, you might find it's based on geographic lines, which you might have some seats reserved for certain groups within society, or alternatively, and this was suggested certainly in other documents that on certain matters, because of the special character of Quebec, that on certain issues that come before the Senate that the Francophones or whichever group it is must be in accord with that. So there are different ways you can structure decision making.

The other thing is that clearly arrangements similar to the Charter will have to be considered. You have to explore that; special parts of the Constitution needed to be both identified or written, which will give the kinds of protection that certain groups are looking for.

MS. CALAHASEN: Thank you.

MR. HORSMAN: Dennis Anderson, and then Nancy Betkowski.

MR. ANDERSON: Thank you, Chairman.

As we get into this, and I've been involved, as many have here, in the constitutional discussions or around the edges of it since 1980. This is the first portion that we've started to go into where I have difficulty knowing where to place our emphasis, what questions to ask, where to go, what will be best for Alberta and for Canada in terms of the future, and I guess in that regard I have two questions that either gentleman might want to respond to.

One is, is my sense right that we have evolved now a principle in confederation, a fairly recognized principle, that the provinces are equal partners in confederation, be that around the first ministers

table as part of this executive federalism, or with regards to the amending formula, is that now a Canadian accepted principle, and should we be building on the basis of the concept of equal partners in confederation when we talk about institutional reform in particular.

I guess the other is very fundamental in that are we now at a position to deal with a rapid change, as Dr. Meekison talks about in his paper; are we at a spot where the institutional change in terms of federal decision-making is crucial, or is it equally crucial to deal with the distribution of powers question, and should there be an emphasis on one or the other in terms of finding the right direction for the country in these challenging times?

DR. MEEKISON: I think the real problem, Dennis, that you're experiencing, we are all experiencing because we have entered a new era and the old solutions and the old questions no longer fit, and we're all kind of groping not for the solution, because we do not know what that will be, we're not even sure we know the way. And so one of the things which I would recommend we do, a committee such as this do, is have meetings where the public, if you like, can say, this is what I think, this is what I want, this is my vision of Canada, or whatever; and then once you get that, you can sit down and look for common threads, put them together, say okay, here's what we see emerging, and based on our own experience, this is the type of thing that we feel we should be addressing in the next, if you like, series of discussions.

And it seems to me the two-tier process that you have embarked upon will allow you to do that, to bring certain things into focus. For example, in preparing for today, I went back and looked at a communication issued by the western premiers in 1980, and that's only ten years ago, and let me read it to you. "Sovereignty association means two separate countries with two separate citizenships and no common parliament. The economic association proposed after separation by the Quebec government is clearly incompatible with the interest of Western Canada. Confederation involves a sharing of both the rights and responsibilities inherent in any federal country. In short, the four western premiers will not negotiate sovereignty association, and any other assumption is a dangerous illusion."

That's very, very strong language ten years ago, but it was also written about three or four weeks before the referendum. So there was more to it than just sort of here is a statement that sort of came out

of the blue, because some of the earlier statements from western premiers in 1977, for example, showed a great compassion and a great sharing and willingness, and it's this type of thing which I think you need in your hearings and in your discussions amongst the members of the Task Force to say, what is it we really want? Do we really care, and if we really care, is there something here we're saving; if it isn't, are we prepared to compromise and accommodate?

The equal partners thing. I think basically federalism has to be premised on the notion of some kind of provincial equality in some way. You have to start with that. Then I think you have to say, okay, having accepted that, are there either techniques, or can there be recognition that some parts of the country are different, because in fact they are different. Indeed, this is what I thought the distinct society clause was trying to get at in the original Meech Lake agreement because if you go back to Confederation Act itself and you read it, first of all, it's dull reading, and let's not get over that, but the reality is that in that document you find all sorts of differences. People were willing to accommodate, not because, well, if you've got this, I have to get that, because it seemed it make sense.

And I think what you also have to do is approach this with a modicum of common sense, that certain things are going to have to be done because you need a nation, or something to do -- somebody to do it centrally; otherwise you can do it at a local level. And obviously Canada today is different than Canada before. We have communications, instant links, we have fax machines now, and all sorts of electronic mail. Do we even need provinces, just have one government. I think those are questions that we ask, and I think the answer would be we don't like that. We want to balance it in some way, we want to have some kind of government which is close to the people, dealing with certain things which these individuals think are important. That's where you're going to have to try to I think draw some lines and values, not saying it's got to be specific. The more specific you get, I think the more you get into difficulty. At the first cut I think you have to talk at a level not of abstractions but in generalities.

MR. HORSMAN: Let's jump in on this; Peter, I'm sorry; as chairman I don't like to do this too often, but in the Harmony and Diversity paper you referred to in your opening remarks, you referred to a principle of

representative government. Now, that is based on the traditional British model of representing your constituents, and you can go back to Burke's letter to the electors of Bristol as one of the fundamental concepts of representative government. But what I perceive today is that the public is anxious to have more participation in the decision-making process in between elections and that the old notion of going to the people on a platform, saying this is what we will do if we are elected, and then carrying it out, and if you don't like the way we've done it, you can throw us out at the end of three or four or five years, is less acceptable today. So that concept of representation is not as valid as it once was, even when this paper was put out in 1978 -- '78, was it? Yes. Okay.

So let me just degrees on that and give you a specific instance: The Meech Lake Accord. In 1987, when it was negotiated, we agreed to it and we put it in front of our Legislature in June and we said to the public, give us your views over the next several months on the issue, and then we'll bring it back to the Legislature and debate it, which we did in November, and passed it unanimously. That was in '87. Now, three years later, every politician that's sitting around this table and every politician in Alberta will tell you that public opinion had reversed itself dramatically on that issue, but we as representatives and as a government felt ourselves bound by unanimous decision of the Alberta Legislature passed in 1987. So in the three-year period, that whole public opinion swung around, and we know that.

Now, how do you handle that as an elected person, and how are we going to be able to deal with those issues, that concern, in the future, and I just throw that one on the table for you because I think it flows from your remarks that you just made.

DR. MEEKISON: There's lots of ways you can deal with it. One, I think you can have fixed elections, you can have them every year; that's certainly the high agree of accountability. Another way is to have some kind of, now this is certainly common in the United States, some form of initiative will require the government, based on petitions, to reconsider positions. But simply to answer your question, Mr. Chairman, is the fact that we were dealing with a constitutional amendment which (a) dragged on, and I think was not the intention of the amending formula when it was drafted. I think the idea was you had an agreement, and then you proceeded to get the amendment approved,

not the reverse; and so the process seemed to unravel because it was too long, and nobody, in effect, was speaking on behalf of the amendment.

The people who had supported it somehow -- I'm not saying here, but I'm saying that the government of Canada seemed silent on the matter, and after all, it was one of their initiatives. Other people were silent on the matter, and part of the difficulty, I feel, is that the agreement, once reached, should have been approved. Had it been approved, I think you would not have found a concern; people would have been discussing other matters which were to be included in the next round, and it was totally open-ended. There would have been, I think, a full public involvement in the thing. So the issue is -- I think it took too long.

MR. HORSMAN: I think we were going to have to tackle the issue of how elected people respond more rapidly to public concerns and public opinion, and that is a challenge, and particularly in today's immediate communication situation that we're facing. I mean, when John A. Macdonald and company sailed off to Prince Edward Island, nobody heard from them for quite some time, you know, it didn't get out to the people of Canada for a very long time. In any event, things were different then as to what people expected of their elected representatives. Now, what I say here, or a little 8-second snip of what I say, can formulate an impression in the minds of Albertans within an instant, so it's a very challenging new role that elected people have to play. How can we accommodate this within our Constitution framework. I'm sorry if I've digressed --

DR. MEEKISON: More public hearings. There's no reason why you can't, on constitutional questions, and the issue is whether it goes beyond constitutional questions to all issues, have a series of public hearings. But at some point after having them, I still think legislatures have to decide what the outcome will be.

MR. HORSMAN: In the end, the ultimate response really must rest with the elected people is what you're saying.

DR. MEEKISON: Exactly.

DR. WATTS: I think one of the things that makes it difficult for politicians is that partly under the impact of electronic media and so on is simply that public opinion has become so much more volatile than it used to be. I remember when I was a student, political scientists used to measure variations from election to election in terms of shifts of 3, 4, or 5 percent. 5 percent is considered a massive shift. Well, in the province I come from, in the space of a few weeks public opinion shifted a long way from support for Mr. Peterson to support for Mr. Rae. Those figures would have been regarded just as unbelievable 30 years ago by professional students of political science, and so this is one of the things that makes it increasingly difficult for politicians to keep in tune with public opinion which can shift so quickly and so massively. And the same is true of the Meech Lake Accord. In the early days when it came out, there were massive majorities in support of it, and over time that changed, and therefore it's very hard to -- so that I sympathize with the very problem you've identified.

MR. HORSMAN: Dennis, I don't know if you got your questions answered because I did jump in on one aspect; I apologize.

MR. ANDERSON: You did, Chairman, and that's fine.

DR. WATTS: I didn't answer it. Did you want my further comments?

MR. ANDERSON: I'd be happy --

DR. WATTS: I would say hey, that I don't think I disagreed with a word that Peter said, so you can put me on his side on that one.

On the two particular things, taking the issue of equality, I would agree with him that the fundamental basis is to look at the members of the federation as equal partners, but to bear in mind two points about that. The first is that one of the resentments in Quebec, of course, was that it was not a partner to the 1982 agreement. It feels itself very unequal about the 1982 one; there were good explanations for why one couldn't get Quebec's agreement at the time.

I'm not being critical of those who reached the

agreement, but that's why the Meech Lake Accord issue came up, why the demise of the Meech Lake Accord means that it continues to be a burning issue in Quebec, because there's a view that a charter, which in fact reduces Quebec's traditional jurisdiction over civil law, was imposed without Quebec's agreement, at least that's the way it looks to Quebecers and so on. So that's an important element in terms of how Quebec looks at equality.

In terms of how one resolves it in a solution, I agree with Peter's approach, that is, no one starts with fundamental equality, but then you have to pragmatically adapt it to the particular circumstances. He suggested four devices, I suggested two others, the opt in or opt out arrangements, and so on. I think if one looks at other federations, one finds that there are pragmatic adaptations to principles of equality; in other words, those who argue, as I believe the premier of Newfoundland did, that it's a fundamental principle of federalism that there shall be no, absolutely no, adjustment to the principle of provincial equality. He just has it wrong, if you look at other federations. Lots of other federations have adjustments to it. While that should be the basic principle, adjustments to it are certainly typical of other federations.

The second thing is institutional change and distribution of powers. Those are the two fundamental elements of any federal system. Traditionally we in Canada have tended to look at it in terms of the distribution of powers, but a number of authors, I among them, have argued that in understanding any federal system you've got to look at both of the distribution of powers and at the central institutions, that is, how regions affect or shape national decisions. And there, you know, our institutions have, historically speaking, taken far less account of regional inputs than those of any other federations. We're the one that looks at the Swiss model or the American model or the German. These are all different models, but they are ways in which regional views -- and I'm not using region in the sense of the prairies, but I mean provincial views -- are taken into account. Since those are two inextricably related elements in any federal system, I think to say we will only concentrate on one and not the other certainly ties your hands, and therefore I think you have to look at both, given the fundamental situation there.

MR. ANDERSON: I certainly agree with your writings in that regard,

and I suppose I've concentrated more in recent years on institutional reform. I'm beginning to wonder, though, whether the (a) more likely achievable aspect, given our circumstances in the nation, and (b) the more sensitive to the regional and changing needs concern would be in the distribution of power.

DR. WATTS: I think the likelihood is in both fronts, that is, I think one has to address both fronts, but surely what's happened in recent weeks and months means that people are going to be amenable to Senate reform. If we were to say that's the only solution, no; by itself that's not enough, but to say that Senate reform shouldn't be part of the total package, it seems to me people are ready for some Senate reform.

MR. ANDERSON: I'm glad to hear you say that. I was concerned Peter was indicating it might be on the back burner for awhile, and that was my initial --

DR. WATTS: I think it's on the back burner if you take it as the sole form of reform.

DR. MEEKISON: Exactly.

DR. WATTS: But as part of a collection of issues, I think what Peter has just agreed.

DR. MEEKISON: I think going back to that what you have to realize is that we are going to be putting everything on the table, everything, and indeed that's what the premise was in the 1968, during constitutional discussions then, and in 1970. In other words, everything has to be, in effect, negotiable or discussable, and to say no, we can't talk about that because that's either sacred, there's something -- why is that sacred; so I think everything has to go on, but I think you'll find out there's a balancing.

Going back to your question, when I look at the amending formula, and I've done a little work on it, the dilemma was this. The amending formula was unfinished business, and when you write it after the fact, people think, now, what can I do to protect myself against something? The amending formula was not seen so much as an instrument for change, but

as an instrument of protection. It was a defensive mechanism, not something to change the Constitution because when you write a Constitution, the last thing you put into it is the amending formula because if your handiwork is perfect, as people who would tend to write things think it is perfect, that it will leave to future generations to change it; we won't worry about it. And so when you write the amending formula and if you approach a new constitutional arrangement, a good part of that arrangement is going to be defensive.

For example, and I'll go back to one of the themes I mentioned, natural resources. If people say, well, we think natural resources should become a federal responsibility, after all, all this land was federal at one time, in Ontario and Quebec, we'll give everything back to the central government and they can administer it for the benefit and glory of all Canadians. That is just not going to sit very well with people, it's just not. So basically you're saying all right, how can we protect that, and indeed that was the key, I think, to the Alberta legislative resolution in 1976. So when we look at things, people go how can we protect -- Pearl's raised it on multi-culturism, on aboriginal rights, on languages. You can start to set out a whole series of things which are going to need particular attention in the constitutional solution, maybe through some kind of institutional device such as double majorities or special majorities or concurrent majorities, and/or the division of powers. I do not think it's beyond our ability to come up with something. We have a marvelous experiment here, and it has evolved, and that's what people ignore, the evolution. We have all this experience, and I think we should build on that experience. I think we could be successful.

MR. HORSMAN: Thank you. Nancy Betkowski.

MS. BETKOWSKI: Thank you, Chairman. I welcome Dr. Watts to Alberta. Dr. Meekison, it's nice to have you at the table.

I think what I'm hearing through both of you is the optimism that we all want to feel and the optimism that this is not the end of a process. It seems to me that we've seen an incredible evolution of the Communist system, and it is an opportunity, I believe, for the evolution of the democratic system. We are learning more as we go along.

Both of you have said, and I think, Dr. Watts, the quote I would pick out of yours is that merely recognizing diversity does not

hold the nation together, and Canada, you both said, is about balance. It seems, in the eyes of some, that that balance has been skewed in part by the Charter coming in; it's basically a new institution in Canada. That's not a judgment of right or wrong, it's simply an observation. I think the amending formula was put in place as a balancer to the effects of the charter, but now it appears the amending formula, at this point at any rate, is inoperative for the issues that we're dealing with in Canada right now. The Charter too, I think, is an instrument that Dr. Meekison referred to that both protects and is an instrument for change. We've seen it and its effect on Canada.

So I guess when we talk about the protection of rights, my question would be, is there a role for parliament, for the legislatures, in the protection of rights of not just the individual, but the rights of the system? It's really these paradoxes you've been talking about about equality and asymmetry. So I'd be interested in your views about the role of the legislative function in the protection of rights.

DR. WATTS: I'd be happy to kick off on that one, and I'm sure Peter has comments to add, and I think it's closely related to the questions you tacked on at the end of my comments, so if I may, I'll sort of put them together because they point in the same direction.

MR. HORSMAN: Certainly.

DR. WATTS: I might start by citing the language that the Macdonald Commission used when it suggested that historically the two pillars of the Canadian constitutional system had been federalism and parliamentary institutions. What we did in 1982 was to add a third pillar, and that is the Charter, and I think that's a good way of looking at it because its impact has been virtually in those terms. But if the three -- there's almost a triangle of relationships; that is, the Charter either acts with federalism, and it interacts with parliamentary institutions, just as federalism and parliamentary institutions interact with each other. Insofar as federalism attempts to identify or provide for diversity in terms of providing self rule for groups across the country, the Charter attempts to do it by providing uniform rights right across as judged by the courts.

So there's a natural tension, then, at that level

between what might be called those who see their rights protected by territorial governments, by territorial I mean provinces or states or whatever in a federal system; in other words, you'll see their rights protected by self government through their own legislators, and therefore that tends particularly to be attractive to groups who are concentrated within their regional area, their province, and that's one reason why Quebec people have tended to see their protection through the Quebec government rather than through the Charter, but certainly similarly Albertans might see their rights protected through their Alberta Government rather than just through the Charter in certain respects.

And then there are those groups who are not territorially concentrated, who are spread right across the country, who see their rights best protected through the Charter. Women are spread right across the country, other minority groups that are spread right across the country but would not be a simple majority in any one particular government see the appeal of the Charter as the way of protecting them. So we have in Canada, in fact, as a result of the Charter, now crisscross between what might be called territorial pluralism and non-territorial pluralism, that is, pluralism that cuts across the country. And I think you saw that come right to the floor in the debate on Meech Lake. The groups who were opposed to Meech Lake were largely the non-territorial pluralist groups, interests who felt that their rights would be brought forward by the Charter and that the Meech Lake Accord in some way would chip away at those rights.

Now, the other access is -- these are all interrelated, but it's the one that you and the chairman particularly focused on -- that is the Charter relating to Parliamentary institutions, but it is related to that notion of federalism and provinces protecting territorial groups. I must admit as a member of the Pepin-Robarts Commission I supported the notion of a charter. There are days now when I begin to wonder whether I did the right thing in supporting it, because it seems it's not that the protection of rights isn't a good thing, but it has come to the position where there's a real tension, I think, between parliamentary institutions and rights protected by judges, in effect, that is what it has done is to increase the level of judge made law because there are so many cases of litigation that go to the courts and which then become constraints upon what legislatures and the people's representatives might do.

Now, we have here, I think, a basic conflict

between the principle of British parliamentary government, which we adopted, which is that you protect your rights by having complete control over both the Legislature and the Executive through your elected representatives. You elect your Legislature, and your Legislature controls the Cabinet is the notion because the Cabinet reports and is responsible to the Legislature. That's at least in principle, the parliamentary principle.

The Americans adopted a different system. Theirs was you protect your rights by dispersing power. You give some of it to the Legislature, you give some of it to the Executive, quite separate, not responsible to each other, with interlocking checks and balances. In other words, the American system is more pessimistic about politicians, perhaps; it assumes that you disperse power among executive, legislature, judiciary and create checks and balances on each other. Now, to those of us who are maybe frustrated with the Canadian system, I simply say don't assume that the American is all that much better. Just look at the problems they're having with their budget right now. That's what happens in a system of checks and balances.

And I remember, when I was studying federalism in developing countries talking to Sir Ivor Jennings, when he said that Pakistan considered the American model and decided that it would never work in Pakistan because there would always be deadlocks between the Legislature and the Executive over the budget. Kind of prophetic when you look at what's happening in the United States. So checks and balances is not necessarily a more efficient system; it's a different philosophy. You disperse power, give nobody total power. The British system is you concentrate power in a Legislature and Executive which is elected by the people. And what we have done with the Charter is to mix the two, so we have two contradictory principles mixed together, and I think the outcome of that is likely to be enormous pressure in the future for controlling the way in which judges, who are the judges who are going to participate?

We've assumed in the past that the process of appointing judges was simple and straightforward, but we are going to see the sort of hassles that happened over the Bork case and so on in the United States because if so much of what happens in our society is now going to be decided by judges, who we do not elect, instead of politicians, who we do elect, the issues are going to come up how are those judges selected; how is their

philosophy, their leaning, going to be analyzed before they're appointed, and this will open -- you know, you can begin to see it already, but I think that's going to introduce a new element because we built into our system a basic contradiction. That hasn't answered the question, it's just elaborated what we've done in building in that contradiction.

I remember listening September 1980, at the First Ministers Conference, to long speeches by Allan Blakeney, Sterling Lyon, when we were concerned about exactly this particular issue. That particular First Ministers Conference broke down, didn't reach a resolution, but it was on exactly this issue which the western premiers particularly were strongly concerned. And of course, that is why the notwithstanding clause was put into the 1982 Constitution. That was meant to be a release valve so that if the judges go wrong, as it were, in terms of the -- when I say wrong, I don't mean immoral, but I mean if they interpret the Constitution in a way that is unacceptable to the electorate, that with the support of the electorate, the legislators could override that.

Now, it's only for a five-year period, it would have to be renewed after that, and so on. I think that notwithstanding clause, unpopular as it has become amongst some charter supporters, was a crucial element in the compromise of trying to combine parliamentary institutions with a Charter, and my view is if the notwithstanding clause were removed, we would have much greater difficulties. Even now it's very difficult to exercise because you have to have popular support for Legislature to exercise it. While that's the right check, the electorate checking the Legislature, but at least a Legislature supported by the electorate has an out with the notwithstanding clause.

MR. HORSMAN: That's an extremely important issue that we're going to have to discuss with Albertans in the next period of time because the principle of democracy, which means to me in the simple way that the people decide how they are to be governed, is in complete contradiction to the former system of appointed people or favourites of the King or whatever making decisions and making laws. Now, you've heard my expression of concern on this at the conference last Easter weekend in Berkeley, California, that the principle democracy is not served by having appointed people making laws, and I applied that to courts and to the Senate of Canada. Do Albertans agree

with that or do they not?

We're going to have to assess that as we move through this process, but it's a fundamental question, I think, for the future operation of any Constitution in the democratic society, and so it's going to be interesting to hear how those people who support the Charter, if you will, the legislation of rights in an official way in a document can support appointed people making those laws that will flow from those decisions, in fact that's what they're doing, without having that process of more input into the appointment of judges, and so we come full circle on that issue. Do we then recommend ultimately the election of judges? You see, the Americans have done that in some of their state constitutions, in any event, and in terms of the appointment of justices of the Supreme Court in the States, we've seen in recent months two different approaches to analyzing the judges before they're appointed. It is really quite remarkable.

Sorry, I jumped in again. Peter, did you want to --

DR. MEEKISON: Ron mentioned a notwithstanding clause, and since Alberta had a role in seeing that was inserted into the Constitution, I agree this is something that has to be discussed. But the interesting thing is that it was the exercise of the notwithstanding clause by Quebec, I think in response to the electorate of Quebec, that got the rest of the country up in arms, and so the exercise, while it may be acceptable locally, may have major consequences outside, but I think that was seen as the balancing mechanism. Indeed, without that, I don't think we would have had an agreement in 1982. But you go back to your fundamental question, and that is what is the role of legislatures? I think the role of legislatures is to govern, or to make laws, and if you look at the Constitution, we have to assume that, first of all, that the Legislature in the enactment of its responsibilities is not going to deliberately go about setting aside rights. There are examples in Canadian past where that has been done, and I accept that; and indeed, the reasons for the many acts in the Social Credit government in the mid-30s being set aside was that in fact they did violate rights.

At the same time, if you look, for example, at the sections in the Charter concerning minority language education rights, there's a guideline there for legislatures to take action, to do something. If I look at the

sections which are not in the Charter, such as the section on equalization and regional disparities, I read that governments and legislatures are committed to promoting equal opportunities for the well-being of Canadians. This is a directive to legislatures to do things, to further rights. I would say that the Section 15 of the Charter which deals with equality rights has a provision in there for, in effect, affirmative action. And so the Legislature is not held back from doing things, it is in fact admonished to do things, to take action in certain instances if necessary. So to me there are lots of things that legislatures can do.

I think the concern is with the Charter that the Legislatures are set against the people. I don't accept that argument. I think legislatures can be proactive in the furtherance of rights, and by doing that I think public opinion will indeed be onside with the legislature, in fact cheering them on, thank you for doing this, thank you for protecting this. But I guess the concern would be that at some point this has to be balanced, that giving rights to one group or recognition of one group may in fact take away from some other, and this is where governments have to make decisions.

MR. HORSMAN: We've now gone past twelve o'clock, and we had agreed that any members of the audience who wished to submit written questions to do so. I've received two. Does anyone else have any they wish to record?

First of all, I did have the question from Elizabeth Graham (phonetic), who was unable to attend, and I answered that, about the question of equal representation by men and women, indicating that Professor Anne McLelland will be with us next week, along with the representative from the Indian community. We also have on the committee a representative of the Metis community who is also a member of the Legislative Assembly and is a woman, Pearl Calahasen. So hopefully Elizabeth Graham's concerns there will be addressed.

One other question was raised by Mr. Bauer (phonetic), who had to leave, and that is, "During and before the Meech Lake sessions, our government was so very closely aligned with Mr. Baloney (Mulroney) that we lost our clout at these sessions. Now, are we in Alberta prepared to take a firmer stand to put together our views to unite Canada with Quebec as part of Canada, but giving all provinces equal effect and elected

representation in all areas of our beautiful land?" I guess I can answer that by saying we're going to try to get the views of Albertans as to how best to do what is sought in that question.

I have a question by Maurice Fritze (phonetic) just to Dr. Watts. "Can you comment on the comparative influence of the Senate and the provincial premiers as a system of checks and balances to the House of Commons, (1) as it is written, (2) as it is practiced."

DR. WATTS: I take it from the way this is worded that it's referring to the current situation as opposed to what ought to be, that is, there are two ways of looking at this in terms of what ought to be. And certainly if one looks at other federations, there are all sorts of variations here.

I suppose I would have said until the last year that the premiers were more influential than the Senate in the sense that in a system where you combine federalism with parliamentary institutions and in the tradition of parliamentary institutions where the cabinets come to play a particularly important role, but has come to be called executive federalism, which is largely intergovernmental negotiation which is predominantly through the executive branches of the government, has been a very important factor, I think, in Canada in terms not just of constitutional deliberations but in a whole range of other areas.

I would add that that is not unique. I have found in my own research I, during the past year, have produced a monograph on this issue of executive federalism and comparative analysis and found that in every case where a parliamentary system is combined with federalism, it has produced executive federalism as an important way of reconciling what goes on at the two levels of government. Some have argued that that is in part a result of having a weak Senate, that it was one way of getting regional representation into national policy issues; others have argued that it has drained influence away from the Senate. I would argue in either case that in the Canadian case the weakness of the Senate traditionally has been through its lack of legitimacy as an appointed house. And I think the only thing which is probably giving it legitimacy at the moment to a position of being able to be a check on the House of Commons is simply the unpopularity of the GST. I don't regard it as as influential probably as the provincial premiers simply because of its current structure and composition.

Now, you did make the distinction between as it is written and as it is practiced, and I have been talking about how it is practiced. If one looks at the actual words of the British North America Act, the Senate is a very potent body indeed, that is in terms of being able to check virtually all legislation from the House of Commons, but traditionally it's non-elected character has been a barrier against it exercising its written powers, and it's only in the last year or so that it has suddenly stepped outside those traditional conventions and begun to act, as a number of people have put it, as a government in exile and block the actions of the House of Commons. So that I suppose the short answer is as it is written, I suppose, because nothing about the First Ministers Conference except that they shall have annual meetings is written in the Constitution. As it is written, the Senate has a much more powerful body, but as it is practiced, at least by traditional custom up until the last year or so, I think the first ministers were more influential.

I think we're going through what is basically a temporary phase which in part gives them some potency through the unpopularity of the GST, but which at the same time I think is probably in the long run going to bring the existence of the current Senate as it is really into question and lead to its either abolishment or replacement. I would argue for its replacement, by the way, because in any federal system I think you need a bicameral system in which not only the constituent units, the provinces, are particularly represented, but where, of course, also major significant minorities find their expression.

MR. HORSMAN: Thank you.

Also from Mr. Fritze is a question addressed to both Dr. Meekison and Dr. Watts. "Comment on the view that the process employed in Meech Lake contributed to its failure."

DR. MEEKISON: I think that's correct in that right after the Meech Lake agreement, I'm talking about, now, the agreement after the Langevan (phonetic) agreement, in effect there was a request for public hearings, and a statement was made, fine, we'll have the hearings, but we won't change anything unless there is an egregious error, and I think that was a mistake in the sense that that may have very well have been the outcome, but you don't say to people, well, make your views known, but it doesn't make any

difference what you you say, you're going to be ignored, and frankly, I think that got people's backs up.

I do not accept the fact that people were critical of the fact that 11 people negotiated. I think that is a red herring. I think the fact of the matter is at some point somebody had to sit down and negotiate, and you can't have 5,000 people sit down and negotiate. You have to get somebody that is elected or responsible or delegated or given the authority to do that. Moreover, I think it must be recognized that the Meech Lake discussions took place at the end of a series of discussions, they weren't de novo. They ended a series of discussions which I argue started in 1968. I gave a paper on this called Meech Lake, the End of the Beginning, which was the end of our first round, or the Beginning of the End, and my fear was that if Meech Lake didn't make it that it might very well be the beginning of the end, going back to your question of are we unravelling? I don't think we are unravelling; I think we are a little frayed around the edges.

But then later on, when the process continued to evolve as governments changed, I think -- and there were three governments that changed -- I think some means might have been devised to bring them in to discuss at least their concerns, and indeed had that been done, it might have been a different story, but instead some of the governments were told it doesn't make any difference what you think, you will fall into line. In the case of Mr. McKenna, who happened to win all the seats in the Legislature, I think that might have been a difficult pill to swallow.

So one can point to these things, and of course hindsight is always 20/20, but the fact of the matter is that I think had there been greater recognition, not that Meech Lake should be changed, I for one do not think it could be changed; once you make the agreement, it's very difficult to say we don't like that, we don't like that, but I think some way of giving assurances that this wasn't the end, other things would be discussed in the future would have, I think, allayed a lot of the public suspicion and concern.

DR. WATTS: If I could just add two points briefly. I agree; I'm not disagreeing with Peter, but I would just add two further points that might round out what he said.

I think we were probably a victim of our own success in a paradoxical sort of way. By the time of the Langevan agreement

came out, we had all three party leaders in Parliament in support; we had 11 first ministers in support. I think there was an assumption that it wasn't going to be a problem to get it adopted, especially when the early public opinion reports showed a majority in support, and I think the result was lulled by that early success. We failed to sell it to the public, while the critics chipped away at it. So the critics chipping away at it, together with that point about saying we want your opinion, but we won't make any change, I think soured the thing. So I think in part it was a case of being -- usually if there's some opposition, you go out and work hard to sell it, but with so much agreement, what was the need to sell it? And I think that was one part of the problem, and then of course we tried to sell it later, but by then the opposition was mounting. So I think that was part of the problem.

The other thing is, of course, in every federal system when you have constitutional amendments, somebody has to negotiate the proposal and then get it ratified, but in the ratification process you can't keeping changing it. Imagine what happens in the United States when there is a constitutional amendment when they have to get the support of three quarters of the States. If one state decides to change it, and they have got to go back to square one and go around again, and another state changes it and they've got to go back to square one again, clearly in any constitutional amendment process a proposal has to be negotiated, and then you have to test it, does it have the support or not. And that, I think, was what was intended by the statement about only if it's an egregious error will it be changed, but the way in which it was put certainly antagonized public opinion.

But I emphasize that point about constitutional amendments. You'd never get a constitutional amendment if each time one legislature changes it, you had to go back around again and get the agreement of all the other legislatures. So there is a point to that process of agreement, acceptance, or rejection.

MR. HORSMAN: Could I just add one point, too, and that is that it was the first time, really, although there had been one amendment relating to aboriginal rights in the Constitution, it was the first time that we had used the process since the Constitution became the law of Canada in 1982 for a major issue; the first time we'd ever tried it, and I think we saw it didn't work very well because of the length of time, for one thing; it was allowed for the

legislatures to implement it, and because of the very fact that it was pointed out that people thought well, with all this general agreement, it would still be approved.

And the other point is this, that even despite that concern, it was not until the use of the notwithstanding clause in Quebec about the language bill that public opinion turned decidedly against Meech Lake. And it was on that turning point that support failed, and it wasn't anything to do with Meech Lake, but everybody perceived it that way. And I think a lot of attention has been paid to the flawed process. Certainly we all agree that there's got to be more public participation, more public understanding of what the Constitution of Canada is all about, and that's why we're engaged in this exercise which, by the time we are finished, will have Albertans consulted more thoroughly on constitutional issues than has ever been done in the history of this province. So we've learned from the process, I think, and its failure, no doubt that there was a failure there.

DR. MEEKISON: A couple of other points I think that need to be made. First of all, Meech Lake wasn't supposed to happen. If you go back to the period 1986 and 1987 when Mr. Remillard from Quebec first put forward the five conditions, if we look at the debate or discussion in Canada, one of the measures I use was a number of questions asked in Parliament, in the House of Commons about this, about the process; there was really very little interest in the country until the Meech Lake agreement, and suddenly people thought, good heavens, the chance of getting an agreement of all governments is impossible. We know that unanimity is impossible, therefore we won't believe it will ever happen, but it did happen. And once it happened, people thought we should look at this more closely. So that was one issue.

A second thing is that the Meech Lake amendment, when you talk about an amendment you think perhaps an amendment like the Unemployment Insurance amendment or old age pensions or what have you. This is really a basket of amendments. While there were 16 sections, there is no coherence to this action. They don't follow logically one after the other. For example, it would be just as simple to have an amendment, let's say, to the Supreme Court. If you take those amendments out of Meech Lake, there would be no reason why a group or interests or legislatures couldn't say, we like that, we would like to see the Constitution status of the

Supreme Court protected or the composition or the appointment mechanism.

So you could take that as a stand-alone amendment. In reality Meech Lake was a series of stand-alone amendments, but packaged together, it wasn't Meech Lake, leaving aside the process, that was the problem; it was I didn't like that part. The rest of it's fine, I didn't like that part. And at some point when you do that, and if we re-write a Constitution, we can't say, well, we'll have half of it debated and approved today and the other half -- it's like changing the rules of the road; we'll have the trucks on the right-hand side this week and then cars the next week. Well, it doesn't work, so it's going to have to be an all or nothing thing.

But the final point is that, and I think this is really essential to your question, there must be some degree of public involvement. My own feeling is that there would have been a great deal of public involvement in the future process. We were going to have constitutional discussions every year. I think you would find, had that gone through, there would be a great deal of discussion and negotiation on the specific issues, but they would be discussed not as packages so much, but individual initiatives that people could look at. Then they could rise or fall or stand or fall on their own merits.

MR. HORSMAN: Thank you. I've got time for a couple more questions, and I have two in front of me. "Professor Watts expressed the view that the amending formula itself might have to be changed if we are to be able to address the need to bring Quebec in. Any change to the amending formula requires unanimity. So would it not be equally difficult to amend the amending formula?" That's a very good question.

DR. WATTS: My simple answer would be yes. My reference to that particular question is that there have been some proposals intimated, I suppose, by I think Prime Minister Mulroney, but perhaps the step was -- to do it in a two-step process, that is look at the amendment formula and then look at the next stage. I only threw that out as a possible thing, but I agree totally. It's one of the most difficult things to get agreement on to begin with, obviously because it affects everything else that could come down the road.

I think it important -- it's a bit of a side issue here, but it's an important point to make that all federations have complicated

amendment procedures in order to protect minorities, that is, if you simply allowed the majority to amend the Constitution, minorities would not be protected. So in all of them you have provisions that require special majorities of the provinces or states either by legislative action or by referenda. In Australia and Switzerland they have a procedure in which its ratification is not by legislatures but by referendum, but it requires majorities not only in the country but majorities in a majority of states or cantons and so on.

So all of them are complicated, and being difficult to amend is not unique to Canada. The Australians have managed, I think, six constitutional amendments in 90 years out of nearly 40 attempts, so we shouldn't be telling ourselves that we're the only ones that find it difficult to amend the Constitution. The Americans, they've had, I think, 26 amendments in 200 years, and the first ten were in the first couple of years. So they've really had 16 in two centuries. So constitutional amendments in federations, because they involve such complex balances, are never easy. So we shouldn't just blame the process because this was difficult, but we also have to look at the question of whether we put ourselves in a straitjacket, that is, are we stuck with where we're at, and do we force those who want change to look for some extra legal procedure if the legal ones don't work.

MR. HORSMAN: Interesting, the point about Australia, too; the most recent effort to amend the Constitution was an effort by the House of Representatives, which is rep. by pop., to curtail the power of the equal elected and effective Senate, to undermine that principle of federalism, and it failed. It failed by a referendum vote across Australia, which is rather interesting.

DR. MEEKISON: I think again the amending formula in this debate to be a red herring because if we assume that whatever changes in the future are going to be made by the amending formula, I think we have another think coming. For example, we're assuming that Quebec will agree to abide by that. I think what we may have to do, and if you look at the discussions to date, for years the only matter that was discussed was the amending formula. Once you had that, then you could make changes to the Constitution.

And finally, in the '60s people decided or realized that the amending formula had to come at the end of the discussion. You have to agree on everything else, then you agree on the amending formula, and in

part that's what happened to Meech Lake. I think governments and legislatures may have to say, we're going to set this aside. If we're going to draft a new Constitution, we may say we'll put this new constitution to the people in Canada in referendum, and to heck with the amending formula. And I don't think any court in the future would say, well, if this is how we've agreed to ratify it and the people of Canada have in fact ratified it, the court's going to say, well, you didn't follow the amending formula. I don't think we should get hung up on the amending formula. I think it may very be passe given the fact we're going to have radical change.

MR. HORSMAN: I'd just like to jump in here before we get too far along and just point out that the third session of this roundtable will be devoted to discussing the constitutional amendment process, so it obviously is one which is going to take us some time. Sorry, Ron.

DR. WATTS: I was just going to chip in that there's an American precedent for this. In Philadelphia, when they produced what is the current Constitution, the convention itself decided the process of ratification for this totally new Constitution, and they mandated a form of ratification which was quite different from the one that was in existence at the time.

MR. HORSMAN: I've got a two-part question here to conclude. "Would the secession in Quebec give all the other provinces the fact of independence also, and is it the purpose of this task force to begin to prepare for that eventuality?" I'll let the two experts answer the first part, and I'll attempt the last part as we conclude this discussion today.

DR. WATTS: I would answer this in two ways, that first part of the question. Technically, no; that is, in other federations where a unit has seceded, the other units have not automatically, that is the agreements that govern them, have not automatically legally fallen apart. On the other hand, there are precedents to indicate that de facto in terms of what happened subsequently, disintegration has occurred. I think that the West Indies federation, for instance, in which Jamaica seceded, and within a year the thing had broken up because then other units started doing the same thing. Not because they were legally dismantled by the first secession, but because it

started a process, and that's just one example.

I'm assuming that we wouldn't go to the other alternative, which has occurred in some federation, where the federation decided to impose unity on the seceding member, hence the United States civil war. Switzerland had a civil war in 1848, and Nigeria had one in 1969. That's one other way of holding a federation together. I'm not advocating it, but just showing how serious issues can get when emotion arises, heat gets generated, and the seceding party decides that they want something and the others decide, no, they're not going to have that. You know, it gets into issues of what happens to northern Quebec, what happens to the St. Lawrence transportation system, what happens to debts, assets, all that mess of issues and so on. So my answer on that is legally it would not occur, but it could very well be a subsequent political result.

MR. HORSMAN: Thank you, Ron. Peter?

DR. MEEKISON: I would agree with what Ron has said in that I think you would find that the rest of Canada, as it's being called, the central institutions would in effect be in doubt, in question; what can they do, would their laws still apply to different parts of the country, how would parliament function, how would the courts function? And you might find that the province will say, wait a minute, we think we are at least in control of this particular area, we are better able to deal with the problems than this government which -- or the parliament which is totally discredited and in the state of chaos.

So I think you have to assume that if it takes place, and it's not going to happen necessarily overnight if it does take place; if there is some transition time, and of course I don't think it will happen. If, on the other hand, it sort of happened overnight, which is possible, then I think you might find the rest of the province is saying maybe we have to at least get together on regional groupings such as the west or Atlantic Canada and say this is how we think something new should be structured. So it's not de facto independence, but they might operate that way.

MR. HORSMAN: I'll just quickly answer "Is it the purpose of this task force to begin to prepare for that eventuality?"

I think the answer to that is simply that we want

-- the purpose of the Task Force is to find out what Albertans want to see with respect to Alberta and its relationship to the other provinces and to the Federal Government. I don't want anybody to believe that we have a hidden agenda. We do not. This is a consultative process with the people of Alberta, and in the process we intend to consult with other Canadians through their mechanisms of which other provinces and the Federal Government will establish with respect to the purpose of the future of Canada.

So I can't be more definitive than that except to say that the purpose of the Task Force is to find out what Albertans believe about the future of Canada. It is not to prepare us for separation or disintegration. But it is also the purpose to inform Albertans and to get them involved in this discussion because it is the future of Canada which is really at stake, and the future discussions which will take place with us within our Legislature, the other political parties in this province, and with the other governments of Canada.

So with that, to conclude, I want to thank our two presenters this morning for your very excellent discussion. I want to thank those who attended this morning and for the excellent questions that came from the audience. And to conclude, I'm going to give you each a small token of our appreciation for your appearance today. I'm not certain what it is, it looks like a book. I can assure you of one thing, it is not a copy of my collected speeches on Senate reform.

Thank you all very much, and the meeting stands adjourned.

(Proceedings adjourned 12:45 p.m.)